

a profit, then if East Texas is to blame for holding oil down so they can't get eighty-two cents, is East Texas still wasting oil?

A. No, sir, eighty-two cents is a reasonable price for the oil regardless of what East Texas does.

Q. Alright, I just wanted to see where that dead line was. I didn't know how deep I was going to have to dig. We got to eighty-two cents before we stopped.

A. I didn't say that necessarily. Local conditions up there have something to do with it also.

Q. Well, isn't it a fact that this Board—when you create this Board, if you say it is a physical waste now when East Texas is causing it to sell below fifty cents, and then I asked you about sixty, and when I got to eighty you said you didn't think East Texas could be blamed for it because that would be a fair price regardless of all things. Isn't it evident then that this Board that has to prorate East Texas to save physical waste in West Texas, wouldn't they have to arrive at that figure whether it be fifty-three, sixty-eight or eighty-one cents?

A. That is an administrative problem for them.

Q. That is going to cause an argument, will it not, sooner or later, because everybody knows the whole ruckus is about the price. Now, I want to ask one more question and I will release the witness. Do you think that to carry out your ideas of conservation, that it can be accomplished by a bill that does not define as physical waste oil produced in excess of a fair market demand.

A. I stated that very clearly, that oil produced in excess of the market demand results in unnecessary storage, and therefore physical waste. That is in the record.

Q. And you say that a bill that does not carry that will not accomplish the purpose for which you have been employed to try to help get the oil industry out of.

A. That is one of the measures. That is not the only one.

Q. I understand, but to make a complete bill, or to accomplish what you seek to accomplish you think and you say that a bill will have to have as one of its definitions of waste that it is waste to produce oil in excess of the market demand?

A. Unnecessary storage is waste in my opinion.

Q. That is an entirely different proposition?

A. I think it is exactly the same.

Q. I don't see where storage comes into it. You could produce too much without having extra storage?

A. If you produce more than is consumed, where does it go? If it isn't consumed, where does it go?

Q. I will answer that by asking you a question, is there an excess in storage in East Texas?

A. No, but there is in other places that is available for the market.

Q. Where?

A. California has an excess. The eastern seaboard has an excess.

Q. In storage?

A. One of your men just told me an enormous excess in crude is from foreign countries. Certainly there is an excess.

Q. Is there any more oil in storage today than there was twelve months ago?

A. I don't know.

Q. Is there any more oil in storage today than there was eighteen months ago?

A. I don't know.

Q. Why do you say there is an excess in storage?

A. I didn't say there was an excess in storage all over.

Q. Didn't you say there was an excess in storage now?

A. I said there is a lot of oil in storage.

Q. Didn't you say there is an excess in storage now causing a depressing effect on the market?

A. I haven't discussed that at all.

Q. All right, that lets you out on storage.

A. I said if there was excess storage, it is waste.

(At this point, on motion duly made and seconded, the committee recessed until Friday morning, to convene immediately upon adjournment of the Senate.)

#### EIGHTH DAY.

Senate Chamber,  
Austin, Texas,  
July 24, 1931.

The Senate met at 9 o'clock a. m., pursuant to adjournment, and was

called to order by President Pro Tem Tom DeBerry.

The roll was called, a quorum being present, the following Senators answering to their names:

Beck.	Oneal.
Berkeley.	Parr.
Cousins.	Parrish.
Cunningham.	Patton.
DeBerry.	Poage.
Gainer.	Pollard.
Greer.	Purl.
Hardin.	Rawlings.
Holbrook.	Russek.
Hopkins.	Stevenson.
Hornsby.	Williamson.
Loy.	Woodruff.
Martin.	Woodul.
Moore.	Woodward.
Neal.	

Absent—Excused.

Small. Thomason.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Woodward.

#### Petitions and Memorials.

(See Appendix)

#### Committee Reports.

(See Appendix)

#### Gavel Presented.

Senator Martin presented to President Pro Tem DeBerry a gavel prepared by J. C. Adrian.

Senator DeBerry briefly thanked Senator Martin and Mr. Adrian.

#### Senators Excused.

The following Senators were excused for the day on account of important business:

Senator Thomason, on motion of Senator Patton.

Senator Small, on motion of Senator Poage.

#### Senate Concurrent Resolution No. 3.

Senator Woodward sent up the following resolution:

Whereas, The Secretary of State has received a supply of paper bound volumes of the Session Acts of the 42nd Legislature, and

Whereas, The buckram bound copies are not yet available,

Therefore, Be It Resolved, by the

Senate of the State of Texas, the House of Representatives concurring, that the Secretary of State is herewith authorized to lend the members of the Legislature paper bound copies and to accept the same in exchange for buckram bound copies when the latter become available.

PURL.

Read and adopted.

#### Messages From the House.

Hall of the House of Representatives  
Austin, Texas, July 24, 1931.

Hon. Edgar Witt, President of the Senate:

Sir: I am directed by the House to inform the Senate that the House has passed the following bills and resolutions:

H. B. No. 17, A bill to be entitled "An Act granting permission to Red River Bridge Company of Texas, and J. R. Handy of Grayson County, Texas, Receiver for the said Red River Bridge Company, of Texas, to sue the State Highway Commission and the State of Texas, upon those two certain contracts purported entered into by and between members of the State Highway Commission and Red River Bridge Company of Texas, on or about the fifth day of July 1930, limiting the time within which suit may be filed; fixing the venue of such suit; providing for the payment of any judgment which may be recovered against the Highway Commission or the State of Texas in said suit; providing for appeals; providing that injunction suit be dissolved; and declaring an emergency."

The House has passed the following resolution:

H. C. R. No. 5, Petitioning the Interstate Commerce Commission not to allow the 15% general increase in freight rates.

S. B. No. 9, A bill to be entitled "An Act granting permission to Red River Bridge Company of Texas, and J. R. Handy of Grayson County, Texas, Receiver for said Red River Bridge Company of Texas, to sue the State Highway Commission and the State of Texas, upon those two certain contracts purported entered into by and between members of the State Highway Commission and Red River Bridge Company, of Texas, on or about the fifth day of July, 1930, limiting the time within which suit

may be filed; fixing the venue of such suit; providing for the payment of any judgment which may be recovered against the Highway Commission or the State of Texas in said suit; providing for appeals; providing that injunction suit be dissolved and declaring an emergency."

With amendments.

S. B. No. 8, A bill to be entitled "An Act amending H. B. No. 1036 passed by the Regular Session of the Forty-second Legislature, Chapter 187, page 374, Acts of the Forty-second Legislature, prescribing the kind of tackle and method of taking fish in certain fresh waters in certain counties and prohibiting all other tackle; prohibiting possession of any tackle not authorized by this Act within two hundred yards of any fresh waters mentioned herein; exempting the waters of the Colorado and Rio Grande Rivers from the provision of this Act prohibiting the sale, offering for sale or having in possession for the purpose of sale of certain species in said counties; provided a closed season for a period of time when it shall be unlawful to take fresh water fish; making it unlawful to possess certain species of fish of less length than specified in this Act; prescribing a penalty; repealing all laws and parts of laws in conflict with this Act; except H. B. 610, Chapter 90, Acts of Regular Session, Forty-second Legislature; and declaring an emergency."

With amendments.

Respectfully submitted,  
LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

#### At Ease.

Senator Stevenson received unanimous consent that the Senate stand at ease, subject to the call of the Chair. At 9:13 o'clock a. m., the Senate stood at ease.

#### In Session.

The Senate was called to order at 12 o'clock by President Pro Tem Tom DeBerry.

#### Motions to Concur.

Senator Loy moved to concur in House amendments to S. B. No. 9.

The motion prevailed by the following vote:

#### Yeas—26.

Beck.	Oneal.
Berkeley.	Parr.
Cunningham.	Parrihs.
DeBerry.	Patton.
Gainer.	Poage.
Greer.	Pollard.
Hardin.	Purl.
Hopkins.	Rawlings.
Hornsby.	Stevenson.
Loy.	Williamson.
Martin.	Woodruff.
Moore.	Woodul.
Neal.	Woodward.

#### Absent—Excused.

Cousins.	Small.
Holbrook.	Thomason.
Russek.	

On motion of Senator Hornsby, the Senate concurred in House amendments to S. B. No. 8 by the following vote:

#### Yeas—26.

Beck.	Oneal.
Berkeley.	Parr.
Cunningham.	Parrihs.
DeBerry.	Patton.
Gainer.	Poage.
Greer.	Pollard.
Hardin.	Purl.
Hopkins.	Rawlings.
Hornsby.	Stevenson.
Loy.	Williamson.
Martin.	Woodruff.
Moore.	Woodul.
Neal.	Woodward.

#### Absent—Excused.

Cousins.	Small.
Holbrook.	Thomason.
Russek.	

#### House Bill Referred.

H. B. No. 17 referred to Committee on Highways and Motor Traffic.

#### At Ease.

Senator Moore received unanimous consent for the Senate to stand at ease subject to the call of the Chair.

#### In Session.

The Senate was called to order at 2:53 o'clock p. m., by President Pro Tem Tom DeBerry.

**Bills Signed.**

The Chair, President Pro Tem DeBerry, gave notice of signing, and did sign, in the presence of the Senate after their captions had been read, the following bills:

S. B. No. 8                      S. B. No. 9.

**Message From the House.**

Hall of the House of Representatives  
Austin, Texas, July 24, 1931.

Hon. Edgar Witt, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolution:

S. C. R. No. 3, Relative to Session Acts of the Regular Session of the 42nd Legislature.

Respectfully submitted,  
LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

**Recess.**

On motion of Senator Woodward, the Senate, at 2:55 o'clock p. m., recessed until 5 o'clock p. m.

**After Recess.**

The Senate met at 5 o'clock p. m., pursuant to recess, and was called to order by President Pro Tem Tom DeBerry.

**Recess.**

On motion of Senator Woodruff, the Senate, at 5:02 o'clock p. m., recessed until 9:30 o'clock tomorrow morning.

**APPENDIX.****Committee on Enrolled Bills.**

Committee Room,  
Austin Texas, July 24, 1931.  
Hon. Edgar E. Witt, President of the Senate:

Sir: We, your Committee on Enrolled Bills have had S. B. No. 8, carefully examined and compared and find same correctly enrolled.  
GREER Chairman.

Committee Room,  
Austin, Texas, July 24, 1931.  
Hon. Edgar E. Witt, President of the Senate:

Sir: We your Committee on Enrolled Bills have had S. B. No. 9,

carefully examined and compared and find same correctly enrolled.  
GREER, Chairman.

**Committee Reports.**

Committee Room,  
Austin, Texas, July 23, 1931.  
Hon. Edgar E. Witt, President of the Senate:

Sir: We, your Committee on Agricultural Affairs to whom was referred,

S. B. No. 2, A bill to be entitled "An Act declaring soil suitable to growing cotton, one of the natural resources of the State, and in need of preservation and conservation on account of root-rot, a soil disease that is fast spreading, and if not checked will impair and injure the soil of the entire State, and further declaring that planting land to cotton without rotation aids the spread of said disease, and prohibiting all persons, partnerships, associations and corporations who own, lease or rent land from growing cotton during the year 1932 on more than one-half of the land previously cultivated in cotton during the year 1931, and prohibiting planting cotton two years successively, without rotation, and making the violation thereof a misdemeanor, and fixing the punishment, also making it the duty of the Commissioner of Agriculture to procure similar laws in other States, and declaring an emergency."

Have had the same under consideration and I am instructed to report recommendation that it do pass, with Committee Amendments, and be printed in the Journal.

CUNNINGHAM, Chairman.

S. B. No. 2.                      By Cunningham

**A BILL****To Be Entitled**

An Act declaring soil suitable to growing cotton, one of the natural resources of the State, and in need of preservation and conservation on account of root-rot, a soil disease that is fast spreading, and if not checked will impair and injure the soil of the entire State, and further declaring that planting land to cotton without rotation aids the spread of said disease, and prohibiting all persons, partnerships, associations and corporations who own, lease or rent

land from growing cotton during the year 1932 on more than one-half of the land previously cultivated in cotton during the year 1931, and prohibiting planting cotton two years successively, without rotation and making the violation thereof a misdemeanor, and fixing the punishment, also making it a duty of the Commissioner of Agriculture to procure similar laws in other States, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Article 1. That, whereas, soil suitable for growing cotton is one of the natural resources of the State of Texas, and is in need of preservation and conservation on account of root-rot, a soil disease that is fast spreading, and if not checked will soon impart said disease and impair and injure the soil in all parts of the State.

Art. 2. And, whereas, planting land in cotton without rotation with other crops aids the spread of said disease and tends to the impoverishment and destruction of soil suitable to growing cotton.

Art. 3. Wherefore, be it further enacted by the Legislature of the State of Texas that all persons, partnerships, associations of whatsoever name, and corporations who own, lease, or rent land for growing cotton are hereby prohibited during the year 1932 from growing, or causing to be grown on more than one-half of the land which was cultivated in cotton during the year 1931.

Art. 4. Be it further enacted that all persons, partnerships, associations of whatsoever name and corporations who own, lease or rent land for growing cotton are hereby prohibited after January 1st, 1933, from growing cotton two successive years on the same land, without rotation.

Art. 5. All persons, partnerships, associations of whatsoever name and corporations who intentionally violate the terms of the two preceding articles are hereby declared to be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$1.00 and not more than \$10,000.00.

Art. 6. It shall be the duty of the Commissioner of Agriculture of this State to as much so as possible cause other cotton growing States

to pass this, or similar laws, so as to reduce the production of cotton to an amount equal to the consumption thereof, so as to create an equilibrium between the production and consumption of cotton to the end that the price of cotton will rise to a price that will yield a reasonable income above the cost of production to the growers of cotton.

Art. 7. The fact that the spread of root-rot has so impoverished the soil in large areas that has been planted to cotton thereby causing unlimited areas of new and fresh land of this State to be planted to cotton have caused unlimited and uncontrolled production of cotton to such an extent that there is now a surplus of more than eight million bales on hand, and the fact that it is necessary to conserve the soil which is now being planted to cotton and to retard the production of cotton until the consumption thereof will have absorbed said surplus of eight million bales, to the end that the market-price of cotton may rise, and prosperity may return to Texas and the entire southland, creates an emergency and an imperative public necessity calling for the suspension of the constitutional rules requiring bills to be read on three several days, and the same is hereby suspended, and that this bill take effect and be enforced from and after its passage, and it is so enacted.

#### Amendment No. 1.

Amend Senate Bill No. 2 by striking out all below the enacting clause and insert in lieu thereof the following:

Section 1. Declaration of Policy. In order to conserve and preserve the fertility of the soils of this State and in effort to eliminate cotton root-rot and other plant diseases and insects, which elimination is essential to the economic welfare of our State, it is hereby declared to be the policy of the State of Texas that the police powers of the State shall be used to that end.

Sec. 2. 1932 Acreage. During the year 1932, it shall be unlawful for any person, corporation, partnership, or association of persons in this State, who own, rent, or lease land, to plant and cultivate upon a farm or lands cultivated during the year 1932, more than 50 per cent

thereof in cotton or in any other soil exhausting plant.

(a) New Lands. During any year succeeding 1932, it shall be unlawful for any person, corporation, partnership, or association of persons to plant more than 50 per cent of any lands in this State which have not been cultivated during the year immediately preceding, in cotton or in any other soil exhausting crop.

(b) Crop Rotation. And for the years succeeding 1932, it shall be unlawful for any person, corporation, partnership, or association of persons to plant and cultivate cotton or any other soil exhausting plant on lands of this State two years in succession so that there shall be effective crop rotation.

(c) Penalties. If any person, corporation, partnership, or association of persons shall violate the provisions hereof, he or it shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than Ten (\$10.00) Dollars nor more than Fifty (\$50.00) Dollars for each acre in excess of the acreage permitted to be planted in cotton or other soil exhausting crops as provided in Section 2.

(d) Defining Lands. And the land herein mentioned shall be construed as meaning land which is actually in cultivation or cultivated to crops, and such lands as are in pasturage or utilized other than cultivated crops are not used in determining the amount which may be planted to cotton or other soil exhausting crops.

(e) Qualified Complainants. Any citizen of Texas may file a complaint against such person or violators in the County Court or District Court in the county in which the offense is committed, and the Commissioner of Agriculture of Texas shall have the right to and of ingress and egress of the farms of this State, and it shall be his duty to file complaints against such person or violators of this Act, and it shall be the duty of the County or District Attorney and/or the Attorney General of Texas to prosecute such persons or violators.

Sec. 3. Duty of Governor and Commissioner. The duty is hereby enjoined upon the Governor and the Commissioner of Agriculture of

Texas to confer with the Governors and Commissioners of Agriculture or similar officers and legislatures of the various other states to bring about like results contemplated in this Act for the better conservation of the soil, eradication of plant diseases and the general welfare of the cotton industry.

Sec. 4. Constitutionality. If any section or provision of this Act shall be declared unconstitutional for any reason, the remainder of the Act shall not be affected thereby.

Sec. 5. Emergency Clause. The fact that there is now no adequate law protecting the cotton industry by the preservation and conservation of its soils, which are being rapidly depleted and impoverished through the lack of proper crop rotations and depreciation of insects and plant diseases which are endangering the general welfare of the citizens of this State, all of which are of vital importance, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

#### Amendment No. 2.

Amend Senate Bill No. 2 by striking out all above the enacting clause and inserting in lieu thereof the following:

#### A BILL To Be Entitled

An Act, providing for the conservation, preservation, and rehabilitation of the soils of this State, the elimination or prevention of root-rot and other diseases by crop rotation, providing percentage of each farm in this State which may be planted to cotton or other soil exhausting plants during the year 1932, thereafter prohibiting the planting of cotton or other soil exhausting plant on land two years in succession, prescribing penalties and manner of prosecution, providing for cooperation of Governor and Commissioner of Agriculture with officers of other states in the Union, and the time and manner of taking effect hereof, and declaring an emergency.

## TRANSCRIPT OF TESTIMONY.

Friday, July 24, 1931, 9:15 a. m.  
The committee convened at 9:15 a. m., and the following proceedings were had:

The Chairman: The committee will come to order. Gentlemen, this is Mr. Holmes of the Texas Company, the president of the Texas Company who has been invited to come before the committee. I want to say to you, Mr. Holmes, that the committee is ready to hear you and would prefer for you to first make your statement, and we would like to know approximately, if we might, just about how long you would require, how much time you would require to make your statement preliminary to any questions that might be asked by members of the committee?

Mr. Holmes: Mr. President, that would depend a little on how much detail you would like me to go into.

The Chairman: I am instructed by the committee to tell you that is a matter in your own hands. We do not care to limit your discussion or presentation of your statement. I have been instructed by the committee to say that you have as much time as is reasonably necessary.

Mr. Holmes: I believe that in twenty to thirty minutes I can give you a general idea of this conservation activity and then I could probably facilitate the matter if you would ask me questions and I would endeavor to answer them.

The Chairman: All right, be sworn. Mr. Holmes.

R. C. Holmes thereupon was sworn by the Chairman, and testified as follows:

Mr. Holmes: I have a little hesitancy about covering a lot of ground that I think probably the most of you are familiar with. But it may be desirable that I do that.

Senator Pollard: Speak a little louder.

Mr. Holmes: I have a hesitancy about going over a lot of ground that I am sure a great many of you are familiar with, but for the benefit of those who may have been familiar with these conditions and may not have them in mind now, and others who may not have kept up with it, it is worth while to do that.

Conservation of petroleum and petroleum gas, avoidance of waste, is

not a new thing. Conservation laws were enacted in Indiana over twenty years ago in an attempt to avoid the waste that resulted from what was considered then activities on the part of different producers, termed selfish activities, disregard for the ability of others at times to,—well, other interests, to take the gas or oil that was available. Conservation laws have been enacted in Louisiana and Oklahoma I think nearly twenty years ago. They were not as comprehensive as the laws that are in effect now in Oklahoma and California. Through this period up until the last few years the country has had estimates from time to time from various experts of the period when the oil would probably be exhausted. Those have been based on such knowledge as these experts had of the known deposit and the probable discoveries. They have all, of course, so far been mistaken in the time that it would take to exhaust the supply. Even today there are experts who will predict that we could be short of oil in this country in five or six years, that the known deposits could be down to a point where there would be an acute shortage. It is well known by those experts and others experienced in the oil business that you might determine that this East Texas Field had, we will say, a billion or more barrels of recoverable oil, ultimate recovery, but it is known also that it would take a great many years to extract all that oil. You can get off the flush, that that comes with gas pressure and that that is easily pumped, but it will be many years before you could possibly extract all of the oil, and that is true in all of the fields, so that we could very readily in time, within the time that no doubt this body in a measure is expected to think about in the interest of the State, and the interest of the nation, it could be very easily short of oil. Today that does not look like a probability for some little time to come, but nevertheless it does not remove the reason for the desirability of conserving resources and avoiding waste.

In 1924, President Coolidge appointed the Federal Conservation Board which is composed of the Secretary of Interior, the Secretary of War, the Secretary of the Navy and the Secretary of Commerce, urging that they cooperate with the oil pro-

ducing states and the oil industry in an effort to conserve these natural resources, particularly petroleum. The oil industry on the whole had been making some efforts along that line. Late in 1928 there was a meeting in Chicago at the time of the Institute meeting of a very large number of producers of the world, approximately 80% of the production was represented, and it was agreed at that time that unless something could be done, some really constructive activity by the entire industry, that these wastes would continue and that we could foresee something of the conditions that we have today. Committees were set up covering six regions, this region here comprising Texas, New Mexico, Louisiana and Arkansas; another region Oklahoma, Kansas and the oil producing states north, that is Colorado, Wyoming and Montana. A district covering all of the oil producing states east of the Mississippi River, and the California District and northern South America, which takes in Venezuela and Mexico and Columbia. As one of those Districts we were asked to determine and make recommendation as to what,—1st, what the requirement for petroleum products would be likely to be for some few years to follow, what each of those Districts by itself would recommend that its district and other districts should produce to best conserve the resources and at the same time bring about some stability and more orderly conditions of production and distribution of petroleum,—particularly production.

The Chairmen of those committees and two other members, were to constitute a general committee to take all of these recommendations and try to work them into a final recommendation for the petroleum industry. I was asked to take the Chairmanship of the general committee and we met in Houston in March, 1929. I took it upon myself that the Railroad Commission of Texas, the Corporation Commission of Oklahoma, the Conservation Commission of California, and the Federal Oil Conservation Board to sit with us to study those reports and try to reach some conclusion as to what should be done. The Federal Oil Conservation Board sent a representative,—it was just at the time Secretary West was leaving office and Secretary Wilbur was

coming in,—that change took place within a day or two after I sent out the invitation. The other Commissions came, all of them came, and sat with us. We worked out a plan in considerable detail, consideration being given by each District to the interests of the oil producing states,—I have overlooked one District,—no, I didn't, I told you about Venezuela and Mexico. It was determined that the production of 1928 would probably be sufficient for 1929, 1930, and 1931, and possibly longer. That report was unanimously adopted by the Petroleum Institute and taken to the Federal Oil Conservation Board in Washington for their consideration, and, if possible, their approval. If you remember the Oil Conservation Board asked the Attorney General whether they had authority to approve such a plan. They were promptly advised that they had no such authority, which was correct. It was not a body which had authority to approve any such plans. The Attorney General went further and stated that he thought it might, the operation of that plan might result in violation of the anti-trust laws. That discouraged some and it also gave some an excuse who were more or less half-hearted about it to discontinue their efforts. Nevertheless the states, well within their rights, and within the law,—the states of Oklahoma, California, Texas, and the other states carried on, restriction of production has been successful to the extent that today there is at least three times the potential production that there is a market for. It has been estimated even more than that, but these potentials, as you know, are based on the open flow of wells, not all of the wells at one time, but a few wells at a time, and that is possibly an exaggerated potential when you get above three times the present production, but we have restricted production in all of these fields, including Texas, including Venezuela, including Persia and the Dutch East Indies to a very considerable extent. In most cases it has been out of an effort to try and carry out, so far as possible, the principles of that plan; in others it has been that, as well as consideration of the other districts that are making the efforts.

Now, I was asked over in the

House why it was that we were able to absorb so much oil in 1929,—that was the year of the largest production. In spite of our efforts production did go up in 1929. That was the largest because of the fact that the plan was not worked out until March and also because a great many,—there were a great many instances where people did not go along and the laws were contested, as they always will be, there will be some who do not agree, possibly rightly and properly, but nevertheless there were enough conditions to result in a considerably increased production, but the reason we were able to take care of that and the reason the price did not break in 1929 was that we ran to the refineries,—in the first place, our commission was about 14% more than it was the year previous, of gasoline, so that the runs to stills was about a hundred million barrels more than it had been in 1928. The imports were slightly less, the exports considerably more, and we put fifty odd million barrels into it.

When we came into 1930, we had this accumulation and this financial distress came on in all lines; the consumption did not increase any more, it has about kept in balance, and a great many were forced, regardless of whether they desired or not, to take oil from storage, and the financial condition made it necessary to take oil from storage rather than buy it. Along about the middle of the year there began to be sales, starting first in Oklahoma, and then in the Panhandle under the posted price; these gradually grew into quantities going to refineries in different sections, largely local, however. It began to break down the price structure, and the people who were competing — the companies who were competing — who were buying at posted prices in those markets, as a consequence began to reduce the prices; and that condition is what I call distress oil production beyond what can be absorbed at the going price has been responsible and was responsible for the decline. Then, later, when East Texas came on, when that was in a rather critical production condition, and production came on in East Texas in such large quantities, and a failure of some of the producers to observe the Railroad Commission's

orders, has resulted in a complete demoralization of the price structure, and a good deal of readjustment of the producing situation, and of course, serious consequences to the industry throughout. Now, I think that neither the large interests nor the small interests can be blamed for the condition. It is due partly to the lack of confidence on the part of some, and a feeling that the conservation effort only partly supported by effective legislation can never work out. It is due partly to the theory on the part of a few that the only way any of these matters can ever work out is to let the law of supply and demand take its course. My judgment is, it is due more, regardless of how anyone feels, it is due more to the inadequacy of the law which gives control of production. Now, my company is one of the large units—The Texas Company—and we are not fearful of a law that gives ample authority to a commission to exercise their judgment in the control of production, whether it is entirely based on the avoidance of waste or whether it is partially based also on the market demand, in order that there may be some stability to the situation and some orderly procedure in production. And if there are inconsiderate and selfish interests in the industry there can be checks on their activities, whether large or small, and in any industry there are some small people whether large operators or small operators. I have no particular criticisms of anyone. I think nearly everyone can give some fairly good justification for his activity, whether it is a lack of confidence, or some other reason, I am not critical of it; but we have this condition, and I am very hopeful that this State is usually in the foreground of constructive activities, and will be able to strengthen your control to a point where you can co-operate with the other states, and with the Federal Government, if necessary, and enable us to co-operate with producers in other fields and other countries to bring about a better condition. Mr. President, I think that is my general statement.

The Chairman: All right.

Questions by Senator Pollard:

Q. Mr. Holmes, I would like to ask you a question. Your corporation has about six hundred million dollars assets does it not?

A. Yes, sir.

Q. They are considered one of the four major producing units in the world of oil and gasoline and supplies, and so forth?

A. I would say we rank somewhere between the third and sixth; I don't know exactly, but I would say we rank somewhere between the third and sixth in crude purchasing, probably fourth.

Q. What I want to find out is this: my understanding is that the Texas, Gulf, Shell and Standard Oil aggregate units, represent the four major purchasing units of the world in crude oil. Is that right?

A. Yes, sir. They are—but there are many other large producers and purchasers.

Q. What are they, please, sir?

A. Well, there is the Standard Oil Company of California.

Q. Now is that independent of the Standard or a part of the Standard organization?

A. Well, of course, you know that all of what were once subsidiaries of the Standard Oil Company of New Jersey are separate, independent units. They are called Standard, I assume, because they were a part of that original organization. The Standard of California was a part of the Standard of New Jersey. So was the Atlantic Refining Company, which is a considerable purchaser of crude.

Q. How did they finally get out from under the Standard of New Jersey?

A. Through the dissolution of the Standard Oil Trust.

Q. What determines today the price of crude oil?

A. That, I would say, was determined largely by the competitive conditions, the conditions of production in the field and the competitive conditions of the refining market, and the price in the refined market. There are a number of factors that would determine or influence one in determining the price they can pay for crude. Sometimes it is the quantity they need. One may be getting more oil at the posted price than he wants. A way to reduce that may be to reduce the price. Other factors influence that.

Q. Generally speaking, the price of crude oil in the United States, is that determined by the law of supply and demand?

A. I would say very largely by the supply that is put on the market.

Q. Mr. Holmes, why is it that the price of crude oil varies at this time from ten cents to about a dollar and a quarter in various sections of the United States?

A. Of course, in Pennsylvania the price has always been high.

Q. Why is that?

A. One reason has been that the Pennsylvania oil had for a good many years, had a high yield of gasoline, higher than other crudes had, and it had a yield of high grade lubricating oil.

Q. How much gasoline did it yield per barrel?

A. I think about thirty per cent.

Senator Woodul: I don't think that the witness was through explaining why the Pennsylvania crude was the higher price oil, and he was stating that it had a higher content, I presume, but the Senator from Smith interrupted him with another question before he could finish making his explanation.

Senator Pollard: I assume the witness is certainly qualified on oil matters, and he does not need the Senator from Harris to testify for him.

Senator Woodul: The point I was making is that the gentleman from Smith should not break in while he was answering a question. He asked the witness a question and the witness explained why Pennsylvania crude was a higher priced oil, and then he breaks in with a question of how much gasoline content there is in a barrel of oil before he can finish the first question. The Senator from Smith ought to let the witness make a complete answer as to why the price is high in Pennsylvania.

The Chairman: The Chair will insist that the witness be permitted to make a reasonable statement in giving an answer to a question.

Senator DeBerry: Was any protest made by the witness as to the manner in which he was being questioned?

Senator Woodul: No witness is going to take on himself that sort of position. I wouldn't if I was on the witness stand before a bunch of Senators.

Senator Pollard: Mr. Chairman, it is not my purpose to do anything but the right thing in here. The witness testified this, that one of the reasons for the difference in the price of Pennsylvania crude and other crude

was that it had a high gasoline and high crude content, and I asked the witness how much gasoline was produced from a barrel of crude oil. If I am not going to be permitted to interrogate the witness when he makes a statement, I want to withdraw from this investigation.

The Chairman: The Senator from Smith will be privileged to question the witness as long as he stays within his grounds. I insist that the witness be permitted to answer his questions with a reasonably long explanation if he desires.

Senator Pollard: Did I do anything wrong at this time?

The Chairman: I think not. The Chair must insist that the witness be permitted to answer his questions in his own way, without interruption either by the one questioning, or any member, so long as he stays within reasonable bounds.

A. (Continued) What I attempted to say was this, in the beginning the price of Pennsylvania results in part, that is where the price is higher today, results in part from conditions which prevailed there some years ago. The reason for those prices or the factors which result in the variation of prices, go back some years. A good many years ago Pennsylvania crude had a higher yield of gasoline, and was the lubricating base crude depended upon more than other crude; there were no other paraffin base crudes producing paraffine base oil, and the specifications for oil petroleum products all over the world were based on the product of Pennsylvania oil, the gravities, the flash, the physical test. When we began to operate in Texas and the mid-continent we found that our crude, was producing qualities of Pennsylvania oil, the physical specifications were lower, the last gasoline and lubricating qualities, and the flash and fire were lower. For years a good many of the markets insisted upon the specifications which they had been accustomed to, all of the government specifications were written on the base of Pennsylvania oil. In later years, those things have been corrected, as production came from other sources. Pennsylvania production had not increased to the point where it had to seek a market out of its own locality. Nearly all of the Pennsylvania crude is refined, very generally refined in their own locality.

Now other products, to get in there have to pay transportation charges from a distance, that is to get into their market, so their crude has the advantage in their own locality of being marketed locally in competition to the crude coming from some distance, and that is largely the reason why the price there is better, considerably better than it is in other sections. Also they have voluntarily and without any request on the part of any of the conservation proponents, reduced their production considerably, endeavoring to do their part in the movement and also in protecting their own local situation.

Questions by Senator Pollard.

Q. May I renew my question that you did not answer. What is the recoverable gallonage of gasoline, if that is the way of saying it, from a barrel of crude oil in Pennsylvania?

A. The natural gasoline without cracking will run thirty per cent as I remember it.

Q. How many gallons will that be from forty-two gallons of a barrel?

A. That would be twelve and six-tenths gallons.

Q. How much crude oil do you recover?

A. Crude oil?

Q. From a barrel, yes?

A. You mean fuel oil?

Q. Well, fuel oil, yes, all right?

A. In the Pennsylvania crude they make little, if any, fuel oil.

Q. How much motor oil or lubricating oil?

A. Well, it depends so much on whether you take out all of the grades or not. That is difficult to say, but the Pennsylvania crude has a lubricating base, and it is not necessary to make any fuel oil from it. It has a large contents of good grade kerosene.

Q. I don't want to worry you but I would like to get this information because I want to base a lot of questions on that in comparison to other fields. Just give the amount of crude oil, the amount of lubricating oil, just give us the percentage?

A. I can't give you that from memory, but I can tell you this, there is a larger percentage of better grades of paraffin, there is a larger percentage of distillate that can be cracked into gasoline. There is a

smaller percentage of fuel oil. The residue has a larger percentage of lubricant in it. Now in many of the crudes the mid-continent,—

Q. Just a minute, I want to go down the line on that Pennsylvania oil.

A. Can I make a comparison?

Q. I want to bring that out later on,—well, go ahead.

A. I am trying to make this comparison, that many of our crudes here have a larger content of what we call fuel oil.

Q. Would you do this, Mr. Holmes, would you give that comparison as to the Gray County section, Panhandle?

A. If I remember correctly the Gray County Panhandle Section crude is not particularly satisfactory for lubricating manufacture; it is a grade of oil, if I remember correctly, with a fairly good gasoline content, rather high in paraffin, but crude. It would not class with particularly good lubricating Pennsylvania oil at all in that respect.

Q. It does make more gasoline?

A. Well, I doubt that it makes more gasoline; I think not.

Q. How as to the Winkler, Upton, Crane and New Mexico Section?

A. They all make less.

Q. How about the Oklahoma oil?

A. Of course there are various grades in Oklahoma, but Oklahoma compares, I would say favorably, and is of approximate value with your North Texas, North Central Texas and possibly with your East Texas crude. Some of those crudes carefully selected are good lubricating grades, on the average they are in general good.

Q. Now your New Mexico, Arkansas and Louisiana?

A. Some of the lighter grades in Louisiana, one of them known the Caddo is a desirable crude. Most of the others are heavy. The Arkansas crudes are all very heavy with asphalt base content.

Q. How about your East Texas, what is known as the new East Texas field, how does that compare as to the gasoline contents, lubricating oil and fuel oil contents with the Pennsylvania oils?

A. I have just said that compares favorably I think with North Texas oil and the general run of Oklahoma oil.

Q. I mean as compared with Pennsylvania?

A. No, it is not as good.

Q. What is the difference as to the contents for gasoline?

A. I would think the final contents through cracking operations would be less.

Q. Isn't it true that they are getting twenty gallons of gasoline out of a barrel of crude oil in the East Texas field today?

A. If they are, I don't know it. That is not the natural distillation.

Q. Are they getting more than twelve and a half gallons?

A. Senator Pollard, don't be surprised if I can't remember all of these details, I am a little too far away from them to know them except in a very general way. These crudes are new and I would not attempt to answer specifically as to the figures.

Q. I am informed by an independent fellow who runs a refinery in East Texas that he is now getting twenty gallons of gasoline per barrel, not through cracking; I don't think he is doing cracking, I think it is a regular refinery?

A. You would have to know whether he is cracking and what kind of gasoline he is making.

Q. If he is making a grade of gasoline equal to the Pennsylvania and recovering seven and a half gallons more would that be worth more or less than the Pennsylvania oil on the market?

A. If that oil and the Pennsylvania oil were in the same location it is possible that it might be somewhere near the same value.

Q. How much does it cost to transport crude oil from East Texas field, I believe it is done by boat and pipe line, to the Pennsylvania market, to the New York or New England States market, or along the coast of Virginia or Carolinas?

A. Well, if you were entering the Pennsylvania market I should think that the average over any considerable period, you can take your pipe line rates today which is twenty-two and a half cents, that is our rate, plus the loading charge, or terminal charges of two and a half cents, that would be twenty-five cents.

Q. Twenty-five cents?

A. Yes, sir. You might get that carried to Philadelphia under present conditions for another twenty-five cents.

Q. That is fifty cents?

A. Yes, sir.

Q. What would it cost to take it to New Jersey?

A. The same thing.

Q. And the same thing to New York?

A. Yes, sir. If you get into the Pennsylvania market you would probably have a freight rate of one and a half cents or possibly two cents per gallon, that would be say sixty-three cents, you have got one dollar and thirteen cents to get it where the Pennsylvania oil is.

Q. Isn't it a fact that the quality of the East Texas oil at this time is considered much better and the demand for that quality greater than the demand for the West Texas and North Texas oil, and the oil in Oklahoma, Louisiana and Arkansas?

A. The quality of the oil is unquestionably better for general refining purposes than the West Texas oil.

Q. The market price should be more for that oil, should it not?

A. I might say that the values are more for that oil, both in the same place, the values are more. I would not say that the price should be more, disregarding the conditions that lead up to price, but I would admit and say that the value is better for general refining purposes.

Q. And that price, you would not say that it should be more?

A. No, not under present conditions.

Q. Why not?

A. Well, I think price is always influenced by two factors, if not others. One is what the owner is willing to take for it, what he offers it for, and the other what the buyer is willing to pay. Now, if the purchaser comes to you and offers you oil for ten cents a barrel you are not likely to give him fifty, or if he offers to sell you a hundred thousand barrels of oil at twenty-five cents and he sends around and offers to sell it and does sell it to another man for five cents you are making a bad buy if you are competing with the man who bought his oil for five cents and you are paying twenty-five cents. All of those factors enter into the resulting price.

Q. How does your company arrive at a posted price?

A. Usually in the matter of posted prices we follow the practice that we followed from the beginning. We

started here in 1902 as a small unit in the industry. Generally, when we have been satisfied that the price posted by others, all conditions considered, was warranted, we followed. There have been a few instances where we have ourselves either raised or lowered prices when we took exception to the price that was posted by others, but ordinarily the conditions of one character or another have warranted the prices that have been posted by major buyers, and it has been pretty generally the practice to follow those who have fixed the price.

Q. Now then, if someone cuts the price, you will go down; is that right?

A. Usually we do, because — (answer interrupted).

Q. If somebody raises the price, then you go up?

A. The reason for that is this—it is the same way in the refined market; if someone cuts prices, if oil can be bought at a lower price, naturally we don't want to be at a disadvantage and we are willing to buy at the same price. If they put the price up, and there is need for putting it up, we don't want to leave our connections, the producers who have satisfied us—we don't want them under the necessity of leaving us and don't want them to leave us, and we put the price up.

Q. I believe you testified in the House that at a meeting in New York in April attended by yourself—what others attended that meeting in reference to fixing prices?

A. As I remember, they were representatives of the Humble, the Standard Oil Company of New York—(answer interrupted).

Q. Who represented the Humble there?

A. Mr. Farish.

Q. Mr. Farish?

A. The Atlantic Refining Company, the Phillips Petroleum Company—(answer interrupted).

Q. Would you state the representatives or the various people who were present, if you don't mind?

A. Mr. Farish of the Humble—there were several representatives of the different companies; I can not remember all of them.

Q. All right; go ahead.

A. Do you want all of that?

Q. No, that is all right. Just name the companies.

A. There was the Humble, the Standard Oil of New York, the Atlantic Refining Company, The Phillips Petroleum Company, The Skelly Oil Company, The Texas Company, Pure Oil Company, Cities Service, Sinclair, Pure Oil—Did I name the Sun?

The Reporter: No, you mentioned Pure Oil twice.

A. Well, the Sun.

Q. Was the Gulf there?

A. The Gulf.

Q. The Sinclair?

A. The Sinclair, yes. All of these—(answer interrupted).

Q. Was the Shell there?

A. What?

Q. The Shell?

A. The Shell. All who were interested in the East Texas field and some of them who were not actually operating. It was a meeting in the Institute and this question came up about the East Texas situation, and an effort was made to see whether the buying companies could not buy enough oil in East Texas so that the price—the Mid-continent price could prevail in that field; in other words, that there would not be this distress oil that was breaking down the entire price structure throughout the fields. That was found impossible. Everybody was willing, but the production just immediately increased and within a short time there was no market—no stable market in East Texas; it got worse after that. Now, whether that was because there was a feeling that the oil would be taken or not, I don't know, but there was an effort. It was the only time I know of that there has been any concerted effort to do anything that had the effect of fixing the price; but that was more to try and see if we could not take enough oil and pay the same price in that field that we were paying in the other fields in Texas and Oklahoma.

Q. Mr. Holmes, do you know anything about a meeting later, in May, in St. Louis, of major purchasing companies in which they decided it would be impossible to pay the regular price for oil in the East Texas fields?

A. No. I know about a meeting in St. Louis—I was chairman of the refining section of the Petroleum Institute and we had our semi-annual meeting in St. Louis. At that time there was—of course, the industry

was represented, but I know nothing about any such meeting.

Q. Did you consider the East Texas oil fields at that meeting?

A. Well, I don't think any consideration was given—any special consideration—any more than this whole thing. We have been constantly considering this conservation situation in an effort to bring about better conditions all the time.

Q. Mr. Holmes, I notice in this morning's Dallas News that The Texas Company posted higher prices Thursday for Oklahoma, Texas, Louisiana, Arkansas, and New Mexico crude oil. The new schedule quotes oil of below thirty-six gravity at thirty-five cents a barrel and above thirty-six—that is for Oklahoma, North Central Texas, North Texas, and North Louisiana—and oil of above thirty-six gravity at forty cents a barrel in the same fields. In Gray County, the Texas Panhandle, The Texas Company's new price is a flat thirty cents a barrel. In Carson and Hutchinson Counties all grades were listed at twenty-seven cents a barrel. It is peculiarly significant that you did not include East Texas, isn't it?

A. Well, I don't know whether it is significant or not. I am perfectly willing to give my explanation.

Q. I will be glad for you to do that.

A. Now, I am very frank when I say, and I have said all along that we can not as a policy pay more in a field—materially more for oil than the purchaser is willing to sell it for. Now, in East Texas the producers are making a market; they are making a low market by offering their oil here, there, and everywhere at lower prices than are being paid in other fields in Texas; they have offered to sell their oil at less than posted prices. As a policy we feel in our judgment that we can not encourage—in the first place, just as a matter of competition we can not do that; we don't think it is wise. In the first place we are unwilling to encourage an activity which is destructive and inconsiderate of the interests of other fellow-producers in Texas and in other states. We will buy oil in East Texas, as much as we can take care of, without neglecting our producers in other fields at whatever price they offer it to us.

Q. Now, Mr. Holmes, how many contracts do you have in East Texas, if any, to purchase oil at ten cents a gallon—I mean a barrel.

A. Well, I don't know.

Q. You do have some contracts?

A. We have some contracts; yes, sir.

Q. Now, Mr. Holmes, suppose tomorrow or today every well in the West Texas fields should be closed or shut down as they threatened to do in other areas, would you be willing to raise your contract price of ten cents a barrel to the man you contracted with or would you still want to take it at distress prices?

A. I would be willing to pay any time the price for crude at which I would be willing to take it out of storage.

Q. What price would that be today?

A. Well, it would depend entirely on what I thought of the security of any sort or I expected of any sort of the production situation. If I thought that we would have no adequate control of production, that this thing was just going to take its course, I would take it out at any price; I would not buy. If it reduced my stock to a point where I was not burdened with carrying charges, if I thought we would have some definite control with cooperation, I would leave it in storage until it got up somewhere around the cost of that oil.

Q. What adequate means of control do you gentlemen prefer?

A. I can only speak for myself. I think, however, that the whole institute which represents the industry very largely have been urging the same kind of control that they have in Oklahoma, that they are attempting to get in California, and that they have in degree in Texas—that is, control by the states, and in my judgment preferably also with cooperation between the states and to what extent you can with the Federal government, so it can be done in an orderly way for the protection of the industry. Now, I have no specific idea how that could be done.

Q. Have you seen the Woodward bill introduced in the Senate?

A. No, I don't know of any bill known as the Woodward bill.

Q. Do you know the bill that was

prepared by the Central Advisory Committee of Dallas?

A. Yes, sir.

Q. Does that meet with your approval?

A. Generally, yes.

Q. Your company would be satisfied with a bill of that kind?

A. I think we would.

Q. Dropping that for a moment, I want to go back and ask you this question: What condition or conditions in East Texas produced the distressed condition to those offering their oil for sale at a less price than the market demand—do you know that?

A. May I have your question repeated, please?

Q. What condition or conditions in the East Texas field produced what is known as distress oil?

A. I would say the first and primary reason is the offer by producers to sell it at the price they are getting, which is a low price.

Q. Now, Mr. Holmes, are you familiar with the condition of the individual who was forced to offer his oil at a sacrifice price—do you know whether that individual, as a rule, was connected as provided under our Common Purchaser Law of the State with pipeline transportation of oil for more favored producers in East Texas or not?

A. No, I don't know that. I am only familiar with the details of our own operations. But I do know this: that when they started to develop East Texas almost immediately they began to bring on an over-production situation. All of the other fields were under proration and under rather what we might call drastic restriction—at least, it has been rather drastic for the producers. (answer interrupted.)

The Chairman: Mr. Holmes, just a moment (raps for order.) All right.

A. (resumed)—so that I would say in a general way, without being over critical of any individual—I don't know the individuals who have done it—but as a whole they have brought on the situation themselves by producing more oil than could have been absorbed at the market price; the price would have stayed up, but it could be absorbed at the going market price without going into Oklahoma markets and other

markets that had been established and which brought about those market conditions.

Q. Mr. Holmes, did you know, or not, that some three weeks ago there were 180 wells in the East Texas Field owned by small producers, people owning one, two and three wells, that could not by any means get connection to your pipe lines or any other line in the field?

A. No, I did not know it. I have understood — — —

Q. (Interrupting.) You understand that, do you?

A. I understood our policy has been not to connect the property or to take oil that is produced out of proration. The result of that, if it results in that, we have been a party to it—otherwise, I do not know of any such case.

Q. Your policy was not to connect to anybody's well and take more than the allowable by order of the Railroad Commission?

A. Yes, sir.

Q. Has your company complied strictly with that policy in the East Texas Field?

A. That has been their orders and so far as I know that is true, yes, sir.

Q. Isn't it a fact there were 180 wells that the pipe lines were refusing to connect and thereby causing the distressed condition? If that is a fact, whose fault was that, the fault of the pipe line companies, or the fault of the man who had his well and could not sell the oil and the oil being drained by others who were selling it?

A. That would be difficult for me to answer. A great many producers have run their lines to the railroads and put it on board cars. There has been a very considerable market on board cars. I haven't any doubt at all that conditions have been such that there have been a great many who have suffered who were not responsible for themselves for the conditions, and while I don't know any such instances as you point out, I can very readily see there are such cases and any of them where a producer, because of his inability, financial or otherwise to get relief has had to do any thing he possibly could to protect his property and his oil from the operation on other leases. I think that is entirely possible and probable.

Q. If I understand your policy, it is your duty not to connect to any man who might want to sell more than the allowable in any oil field, and in that way you act as a part of the law enforcing branch of our oil industry. Is that right?

A. I don't think we have set ourselves up quite in that way. We are operating under the rulings of the Railroad Commission, observing their orders. We do not think it is our duty to take oil from people who do not. It is not in our protection and our interest and we think it is more or less a duty to try to uphold the orders of the Railroad Commission to whatever extent we are called upon.

Q. But, on the other hand, you are willing to take advantage of the sacrifice price of ten cents per barrel after a condition has been created that causes that distressed oil to come on the market?

A. Yes, sir, we are forced to.

Q. Mr. Holmes, if the pipe line companies in East Texas had adopted a policy of only taking, say 150 or three hundred barrels per well and connecting with all equally and impartially would that of itself have raised the price of oil?

A. That is difficult for me to answer. It is not only the pipe lines, as you I think generally term pipe lines, but it is these innumerable small lines in connection with the Railroad that have had a bearing on that situation.

Q. The Texas Company has no production in East Texas Fields?

A. Yes, we have production there.

Q. You didn't have originally?

A. No. We had land there before the field came in, some three thousand or thirty-five hundred acres.

Q. Now, as a policy of riding along,—I am not saying the Texas Company did this,—I don't think they did it, and the facts will show it was another company,—if in keeping with your general policy a pipe line company owned by a major company or any other company, would only take the three hundred barrels allowable from an offset well to the well owned by the pipe line company, and yet took a greater number of barrels per day from their own lease, would that be fair? or unfair to the fellow owning the one well?

A. I would say this, that if that field were under some orderly operating rules and conduct, that such operations would be unfair, but I think where it is out of control and there is no orderly proration or conduct of the activities then it gets to a point where each one, more or less, is forced to care for his own interest, so that I don't want to be in the attitude of criticising the activities of anyone for whatever they may have done there in that respect.

Q. Then it would be your policy, if you had production over there taking oil from your wells, and if you are connected to an offset to take three hundred barrels from the offset and take five or ten thousand barrels from your own well, if you desire?

A. No, sir, that is not our policy.

Q. You don't think that is a good policy?

A. It is not for us.

Q. Do you or not think the pipe line prices at this time discriminate against the man who does not own a pipe line?

A. Frankly, I do not.

Q. How much profit did your company make during the year 1930 in all of its branches in the industry?

A. 1930?

Q. Yes, sir.

A. It made 2½% on our investment in the business.

Q. What total profit, net profit, did you make?

A. Fifteen Million Dollars.

Q. That was on all investments?

A. All investments in the entire activities of the corporation.

Q. According to the Interstate Commerce Commission's report for the year 1930 as published in the Oil & Gas Journal, that showed that the Texas Pipe Line Company of Texas, transporting 42689125 barrels made a net profit of \$9,626,402.00. Is that correct?

A. That is correct, yes, sir.

Q. And in transporting, 15,294,741 barrels the Texas Pipe Line Company of Oklahoma made a net profit of \$1,099,061?

A. That is correct, yes, sir.

Q. And on the investment in the Texas Pipe Line Company of Texas you declared a dividend of 93.4 per cent? Is that correct?

A. Yes, sir, but that dividend was an accumulated dividend. As I remember, we declared no dividend

either in 1927 or 1928, and only a partial dividend in the other year, and that dividend was an accumulation of earnings of previous years.

Q. How many years back?

A. As I say, I think in 1927 and 1928, or 1928 and 1929, only a part of the earnings were declared as dividends to the corporation.

Q. How much was declared in 1927?

A. I don't remember the figures.

Q. How much in 1928?

A. Either one year or the other there was no declaration.

Q. How much in 1929?

A. I think 1929 you just read?

Q. No, sir, this is 1930, I think.

A. Is it? I don't have those figures in mind, except when I saw that statement in the Oil & Gas Journal I had it picked up to see why there should be a report of dividends in excess of earnings and I found the reason was the dividends of previous periods had not been declared. You understand if the pipe line companies need money it is advanced by the Texas Company which owns all the stock of the Pipe Line Companies, and when the monies are accumulated, or the earnings, they are in the general fund of the Texas Company and it is a mere matter of form to declare the dividends from time to time, but we make a consolidated statement for all the corporation and subsidiaries.

Q. This probably represents accumulations of dividends for about three years?

A. A part of two previous years, yes, sir.

Q. And you paid a dividend during one of those years?

A. Yes, sir.

Q. Would you say that was as much as 20%?

A. Well, my recollection is one of those years there was no dividends paid at all.

Q. And how much the other year?

A. About half.

Q. What do you mean "About half?"

A. Half of the earnings.

Q. About what percent?

A. I couldn't tell you, except, I do know this, that for those years, the earnings had been I will say between fifteen and eighteen percent.

Q. This shows in three years—you say you didn't pay any in one

year—that in three years you paid an average of 31.1 per cent?

A. That is wrong. There has been no time when the earnings of any of those companies have been above eighteen per cent.

Q. Now, then, as to the Texas Company Oklahoma Pipe Line, you declared a dividend of 100 per cent the same year?

A. That is the same sort of condition, but the earnings have not been more than they were in 1930.

Q. Now, in 1930, how much did you lose on the production department of the Texas Company, what per cent?

A. I don't remember that.

Q. You did lose on that?

A. Yes, sir, I think we did.

Q. And on your refining, how much did you lose?

A. I don't remember those figures, but I think we made a little money on our refining.

Q. What percent?

A. I don't remember that. Those are figures that I don't have in mind at the time and I wouldn't like to attempt to guess at it.

Q. Could you get those by noon, by 2 o'clock?

A. I could if that was essential information here in determining what you want to arrive at.

Q. I think it is very essential as far as my individual opinion is; I may be wrong. Do you know how much you lost on your retailing department for the year 1930?

A. No, I do not, but I know in this country the loss was heavy.

Q. Now, the major oil companies practically have no competition in the pipe line business, do they?

A. Yes, sir, they have competition.

Q. To what degree?

A. Well, they run to many of the same fields and there is a great deal of common carrier oil. I think that approximately 25% of the oil we are carrying today is common carrier oil, which is to a considerable extent competitive business.

Q. Do you mean that about 25% of the oil you haul belongs to companies other than the Texas Company?

A. I mean 25% of the volume of the oil that is tendered by others for delivery through our lines under the common carrier provision of the law.

Q. I probably didn't make my

question clear. What percentage of the mileage of pipe lines in the United States is represented by major oil producing company ownership?

A. I think a very large percentage.

Q. Probably 95%?

A. Sometimes we differ as to who are the major companies.

Q. I am just a country boy; you are about the first major president I ever saw.

A. Say it is 90%; I think you are safe.

Q. 90%.

A. Yes, sir.

Q. Then you do make more profit on your pipe line than you do on your production, refining, and distributing departments, as a rule?

A. We have certainly in 1930 and 1931.

Q. Yes.

A. And as a rule, the earnings in the pipe line are more regular, because, regardless of the price of the oil, the volume may be the same.

Q. Yes.

A. In fact, in Texas, with this cheaper oil and overproduction, the volume has been greater.

Q. Then your income from your pipe line is more or less fixed?

A. That is more regular and definite, yes.

Q. Now, it is a sounder investment for the oil company to own a pipe line than any other branch of the oil industry, isn't it?

A. I would say only sounder in this respect; probably it is sounder to own production and refining and distributing facilities, but you have to be in the manufacturing and marketing business. Now it is very desirable and sound policy, and we think, good business, to own your pipe line, and give insurance that you will have regularly, or can have, for your refining and marketing requirements, your supply of crude. I think a refiner would be in a rather insecure position without that insurance of his ability to get his supply regularly. In every large unit, wherever it may be, it should keep itself protected with a supply as an insurance. May I add a little to that? The question has been raised of course, as to what disadvantages a small operator may be put to because of that condition. Now, I think the producer is better off be-

cause the companies—we may call them parent companies—the companies who own these pipe lines are very large buyers; they have very large storage, they provide investments in great quantities of oil, and have a tankage to accumulate it. The pipe line without such an investment in tankage and without regular markets which can only be secured through an established retail market, could not afford the producer the market that the large companies can. I firmly believe that pipe lines divorced from the oil companies, and left on their own feet would be more or less out of the market, and under the necessity of buildings of tremendous amounts of storage, just as the oil companies have had to do. No oil company would be tied to any pipe line; he would be trying to get his transportation whenever he could and wherever he could to the best advantage, and he would have no responsibility for the pipe line, for its maintenance, or the supply for it. That would be entirely in other hands, without any responsibility for the marketing or manufacturing facilities. I think it is a necessary facility for any large refining and marketing organization. There is also this difference between pipe lines and railroads. There is no prohibition against any producer or aggregation of producers building a pipe line. We did it as a small company when we had a capital stock of only three million dollars, and less than a million and a half authorized and issued, and we built our pipe line into Sour Lake and developed that field. We went on into Humble on a slightly larger capitalization, and later on we spent five million for a pipe line going into Oklahoma. We were a small independent company and no prohibition was put in the way by this or any other state, and there is no prohibition against any company building a pipe line anywhere as long as they comply with the law providing that it shall be a common carrier also. That is not true of the railroads, no one can build a railroad until he has shown the necessity of a railroad and its effect on existing railroads. No one is forced to accept these transportation facilities, and so far as I know, no one has complained about the rates. I doubt if the rates could be construed to be excessive, or that any material

change other than those made from time to time would bring about any considerable or any perceptible advantage ultimately to the producer.

Q. Mr. Holmes, at this time there is a statute that provides that the Railroad Commission may regulate rates charged by pipe line companies in Texas; that has never been invoked, has it?

A. I think it has to this effect, those rates are all on file with the Railroad Commission.

Q. And approved as filed?

A. And approved as filed. The same thing is done with the Interstate Commerce Commission at Washington. If they take an exception to them, naturally that has consideration, but generally the Railroad Commission has accepted the rates and has filed them.

Q. Do you not think it would be good policy for the Railroad Commission to be given power and authority to enter an order in cases such as you have in East Texas requiring pipe lines, all of whom are common carriers, to connect with these independent wells over there and take oil ratably from all wells in the field?

A. No, I do not. So long as these producers and the field do not comply with the Railroad Commission's order, I would say no. I don't see why in the face of disregard for one order that you should issue another order to protect them in such disregard.

Q. Suppose the order contained the provisions as the present order does?

A. I would be willing to leave it to your Railroad Commission or any other commission to issue any other order they want to if you will give them authority to give definite, adequate and fair control to production. As far as I am concerned, I don't care about the details; I am perfectly willing to depend upon them to be fair to the industry as a whole.

Q. Then you would be willing for the Railroad Commission to have authority in the event you had a line, say, five miles from a newly discovered field, and the field had a daily production of 10,000 barrels, and could get no connection, you think it would be fair for the Railroad Commission to enter an order requiring your pipe line to build into

this field and take ratably from all wells?

A. I will take my chances personally on whatever the commission might order, if they are properly constituted, and invested with proper power. That particular instance, I don't know, but I am perfectly willing to take our chances.

Q. What is your definition of conservation of oil?

A. That can be a very broad definition. In the first place, I think it should be conserving or reducing the use of oil to that quantity which produces the necessary or essential products of petroleum; anything beyond that I call waste. I think when gas is permitted to waste into the air, that is, regardless of its price, it is a waste of a natural resource, which in time will have value. Now I made an estimate last year in looking up this situation, in an address I made in Chicago, that the waste in the petroleum industry of oil and gas has amounted to something like four billion dollars since oil was discovered west of the Mississippi River. Now, in time, my feeling is that the nation will need those resources, so I got down to this essential requirement of conservation, and that is the restriction of the use of petroleum to the quantity necessary to produce the essential products of petroleum.

Q. Would you then say that in passing a law affecting the conservation of oil, that it should control the oil underground and out of the ground?

A. I think it should control it in the ground. When it gets out of the ground then it becomes within the ownership of the individual, or individual units, and a little beyond the power—possibly the proper power of the State.

Q. How much gas is escaping in the East Texas Field now in the lifting of a barrel of crude oil on your leases?

A. I don't know. I heard a witness here state the amount yesterday. If I remember correctly, it was upward of a hundred million feet, I don't remember.

Q. I believe his testimony was three hundred cubic feet of gas escaping with—

Senator Woodward: I think the witness misunderstood the question.

Q. I think he said with every bar-

rel of oil lifted, three hundred cubic feet of gas escaped.

A. I would prefer you to take his testimony rather than mine, because I am not familiar with that gas condition. I thought he said one hundred sixty million cubic feet daily.

Senator Woodward: Senator Polard, maybe I misunderstood your question. I understood you to ask the witness how many cubic feet of gas was wasted on their leases.

Q. I tried to ask him how many cubic feet of gas did it take to lift a barrel of oil on his leases in the East Texas field.

Senator Woodward: I think maybe the gentlemen, or I am, confused. I wish you would ask the question over so I can get it in my mind clearly, and the record will show it clearly.

Q. How many cubic feet of gas escapes with the lifting of a barrel of crude oil on your East Texas production?

A. I don't know.

Q. Now, in defining waste, the escaping of gas in the lifting of oil, how many cubic feet of gas could escape in the lifting of a barrel of oil in East Texas, without being defined as waste of gas?

A. I can't answer that, I don't know. I am not technically familiar with that feature of production.

Q. What would be the rule in any field?

A. I don't know that.

Q. If, as a matter of fact, it costs more to produce gas, I mean gasoline, from gas escaping through casinghead plants, than you could sell the gasoline for, would that be waste, or would it be more economical to let the gasoline escape in the air with the gas?

A. I would call it waste, and I would say this also; that in line with my theory I would not permit the production of oil where such waste resulted, and not until there was such need for that oil as would permit or justify the waste that would have to attend the production. I would say that when there is not the need for the oil, the waste is not justified.

Q. At this time in East Texas, your recommendation would be to the Railroad Commission that if gas is going to waste as stated by the witness here yesterday, that all production cease until the price of crude oil justifies the waste of gas

and gasoline escaping with the gas?

A. I believe that would bring about a very healthy condition rapidly. I think if they would do that, that within a reasonable time the gasoline would be worth enough to warrant the plant for extracting the gasoline. Today it is not.

Q. Suppose that took nine months or a year?

A. I think that if there is any definite assurance that that would be done, there would be plenty of people who would be willing to put in the investment, and even take a loss in the meantime, if necessary, to produce a reasonable amount of oil.

Q. And in doing that you wipe out every independent operator in every field, then what would be the result, would that be for the good of the industry?

A. I hardly believe that would be the result. I do not advocate that policy and that is why I am so strong for some action on the part of this Legislature that I think is necessary to avoid that very thing.

Q. Is this your theory that proration is the solution of that problem?

A. I think proration is a necessary detail of the operation under any conservation activity, because you cannot allow one individual or one field to produce all the oil, it must be done as nearly as possible equitably to all interests, and there are many interests and for that reason it must be. The allowable must be apportioned in line with some fair and equitable and definite way of determining.

Q. Are you acquainted with the various proration orders entered in Texas by the Railroad Commission in the past sixteen or eighteen months?

A. In a general way, yes.

Q. Is that in keeping with your idea of how to enforce an equitable proration law?

A. I think that the Railroad Commission has done the very best they could under the circumstances. I think all of these commissions in Texas, Oklahoma and the other states have done all they have authority to do, and maybe in some instances a little more, in an effort to do the best they could for the oil interest.

Q. Should a proration order affecting the State of Texas take into

consideration the market demand for each particular field, or should it be based upon the total potential production of all fields in Texas, and then ordered entered ratably prorating the fields according to their production?

A. I believe it should take into account the market requirements and give proper consideration to the conditions in each and all of the fields. I do not think it should be based entirely upon the potential capacity or the developed capacity of a field, or any single field.

Q. Proration orders so far in Texas have been based upon not the potential production but upon the demand made by each oil company as to the particular field and what they want to take out of that field, have they not?

A. It has been dependent upon that.

Q. In Texas?

A. In Texas and also upon the degree of cooperation and willingness of different ones to accept some compromise figure.

Q. I have attended several of these hearings and have been keeping up with it, and here is the way I understand these orders have been entered. They first have some engineer make a statement as to the potential daily production in each field and the next thing, they say "All right, Mr. Texas, Mr. Humble, Mr. Magnolia," to all of the other producers who care to take ratably, "you tell us how much you want out of each field"; that is the way they do, isn't it?

A. Yes, but that is not altogether what we want,—

Q. Wait a minute, let me finish stating how they do. Then they add that up and without considering the potential production of any field and disregarding the request made by any refinery or other independent purchaser, though he may be a broker acting for some large company without exposing his identity, they do not consider anything except those companies that they know want an order entered that they will comply with, that is the usual procedure, isn't it?

A. I believe it is, yes.

Q. And disregarding as they do in parts the,—what is that word you used, the demand for oil they will take, the amount they will take from each fellow, what is that word?

A. The allocation.

Q. No, not allocation, the nomination, that is it, they disregard the nomination made. I know they did that in April, of certain independent refineries which had just been organized in East Texas, and all they considered of entering that order of a location, is the nomination made in that order, made by the large companies, that is the way to do it?

A. I don't know all the conditions and circumstances. If those nominations were more or less indefinite, if the commission was not assured that that nomination meant they would take the oil, and also if the total of those nominations exceeded what they thought could be taken care of, and at the same time take care of the nomination out of other fields I should think that commission ought to have some discussion.

Q. What brokers have been purchasing crude oil in East Texas for the Texas Company?

A. I don't know.

Q. Has the Texas Company or not adopted the policy of having brokers purchase oil in East Texas at ten cents a barrel in the name of some broker, with this oil consigned to some eastern shipping port to this particular broker without disclosing the identity of the Texas Company as a purchaser?

A. If they have I do not know it. I do know of this condition, we have been buying and handling oil for people in Canada for a year, and if that is the case I know about that. If there is anything else I know nothing about it.

Q. And those purchases were made with the contract providing that one well or two wells must produce five or ten thousand barrels daily in violation of the proration order?

A. I doubt if there is anything like that, and I say if there was I would know about it. I know of no such occasion.

Q. I have not heard that charged to your company. I was just asking that.

A. We are not attempting to set a standard of operation for any other companies, but we have a rather definite idea of how we would like to operate.

Q. How much empty storage for

crude oil is there in the United States?

A. I don't know.

Q. How much oil is now in storage?

A. At the end of 1930 there was five hundred and three million barrels. I don't know what the figure is today, I think it is a little less than that today.

Q. That was as of January 1st?

A. December 31st, or January 1st, 1931.

Q. (By Senator Woodward.) In the United States you mean?

A. Yes, sir.

Q. (By Senator Pollard.) How much was it on January 1st, 1929?

A. Five hundred and thirty-five million barrels.

Q. That is January the 1st, 1929?

A. Yes, sir, the beginning of 1930.

Q. What is the difference in the two years?

A. Well, that is a one year period. Now the two year period would be the beginning of 1929, January the 1st, 1929.

Q. How much did you have then?

A. Four hundred and ninety-two million barrels.

Q. How much was the storage reduced in barrels from January 1st, 1930 to January 1st, 1931?

A. Approximately thirty-three million barrels.

Q. How much import did you have in the United States during that time?

A. The import in 1928 was in round numbers eighty million barrels; in 1929 they were seventy-nine million barrels.

Q. What was it in 1930?

A. The import was sixty-two million barrels in 1930.

Q. And you took how much out of storage during the year 1929?

A. In the year 1929 we had fifty-eight million barrels to storage.

Q. I mean 1930?

A. In 1930 we reduced the stock twenty-eight million barrels.

Q. Then the import and the amount taken from storage represented approximately a hundred million barrels last year, did it not?

A. Yes, sir.

Q. Now how much have you reduced your storage for the year of 1931?

A. I do not have that figure here, Senator Pollard.

Q. You are today producing approximately a hundred thousand barrels of oil less than is being refined daily, isn't that true?

A. Approximately I haven't that figure with me but I think that it is a little less.

Q. Approximately a hundred million barrels?

A. A little less than what is ordinarily run to the field in this country but I think the import and production are a little less than the refinery runs.

Q. Is there being more oil imported into the United States now than for this period last year?

A. No, I think there is less, I think I can—wait a minute, I have the figure you asked for. The crude stocks in the United States at the end of May, I have the first five months here, at the end of May—I will have to apologize for this memorandum, it seems to be an additional memorandum and takes in east of California. The crude stock of three hundred and fifty-four million barrels up to May, 1931, that is as against three hundred and eighty-five million last year.

Q. Then you have reduced your stock east of California?

A. Yes, sir, practically eleven million barrels.

Q. In five months?

A. Yes, sir.

Q. Now then, the same policy has been adopted by the oil industry in California, has it not?

A. No, in California there has not been a reduction of stock.

Q. Not any at all?

A. I doubt if there is, we have been unable to reduce ours, there has been an over-production situation there right along.

Q. Then throughout this year there has been an over-production of oil in California?

A. Yes, sir.

Q. Then the over-production is more noticeable there than in any other part?

A. Oh, no, it is much more excessive in this State.

Q. Now back to this proposition, you are today producing, I mean the oil industry is producing a hundred thousand barrels daily less than they did this time last year, approximately, and drawing that amount from storage tanks, and obtaining

some, supplementing that by import?

A. That is true, and you know the reason, I think. There are many companies today who are unable to buy crude; they simply haven't the money to buy crude, and they are under the necessity of taking oil out of stock and converting it into cash.

Q. Yes, sir. And what is your idea about companies who are buying this cheap oil—are they storing it or using it?

A. Well, that is very difficult to tell; I don't know.

Q. Are you buying more crude oil at this time than you are using in the refining of oil and selling of fuel oil and stuff like that?

A. Do you mean the Texas Company?

Q. Yes.

A. No.

Q. Are the major companies buying more oil today than they are using in their refining and compressing of oil and so forth, as a general rule?

A. As I say, I think the purchases and the imports exceed a little the amount used in the refineries, but whether they—I think that would be the answer. Now—(answer interrupted.)

Q. Which would be the answer?

A. That the production and the imports are a little in excess, as I remember, of the actual refinery runs. That would mean that there would be just at this time a little more going into storage.

Q. Could it be possible that the oil companies that purchased crude at two and two and a half a barrel and stored this oil and took their loss by the reduced price of oil some time ago could be recuperating that loss on ten cent oil placed in storage, to be sold at a later date at a dollar or two dollars a barrel?

A. I think that is possible, and I think it would be very desirable—

Q. Yes.

A. —on the part of any of them if they could recover that loss. If oil is offered at that price and they can do it, it is certainly good business.

Q. Mr. Holmes, it looks to an outsider as ignorant as I am about oil business like some of the boys might be doing that out of East Texas ten cent oil and that, anticipating distress conditions, they

didn't do anything to keep it from taking place. Do you think they might be playing that way?

A. Well, I don't know about that, but there is this condition that I have told you: the lack of confidence that we would succeed in this—in what I call constructive endeavor may lead some through their lack of confidence to take such advantage of the situation as they think is warranted; so it may lead to that very condition.

Q. Yes, sir. Now, Mr. Holmes, I believe in California they had a distress condition prior to the enactment of certain laws by the Legislature?

A. Yes.

Q. And that immediately after the enactment of that law the price of oil advanced—how much a barrel?

A. I don't remember the amount, but there was some considerable advance.

Q. Was it about forty cents a barrel, or twenty cents?

A. I don't have that in mind.

Q. And the price of gasoline to the consumer advanced five and a half cents a gallon right after that?

A. Something like that.

Q. Yes, sir. Now, then, we have gone through the first process that California had, a very stringent reduction in the price of crude oil, with especial reference to East Texas?

A. Yes, sir.

Q. Now, isn't it rather peculiar that the same condition would exist in Texas that existed in California just before this conservation law was presented to the Legislature?

A. No, it is not. They both come from the same causes; they both come directly from the violation of the Conservation Commission's orders on restriction of production; in California it came as a direct result of the production by some units, some operators, of the full capacity of their wells and the disregard of the conservation orders. That resulted also in the cheap gasoline markets, contributed to that development, broke down the structure price of both crude and refined.

Q. Now, Mr. Holmes, do you mean by that that it became the duty of the purchasers of oil in California to reduce prices of oil to the violators more or less as a punishment or as

a penalty for the violation of conservation, as viewed by the oil purchasing companies?

A. No, sir, I don't think it was the duty; and I don't think that was the direct cause; I don't think it was done for that purpose; it may have had that effect in a way. But we were asked ourselves if we could not buy more oil. We bought and stored in 1929 about nine million barrels for which we had no use; we built new storage and bought nine million barrels. We reached the limit of our ability to store oil, and we were unable to do what some considered ought to be our part in storing oil. It was impossible and impracticable for the companies to buy all the oil that a good many insisted on producing, and that inevitably and always results in a low price.

Q. Mr. Holmes, you say you have studied the committee bill here. If that were enacted, would that automatically serve to raise the price of crude oil in Texas?

A. I think the effect of it unquestionably would be to give some stability of a better or higher level.

Q. About how much do you think the price of crude oil in Texas would be if the bill were passed and signed by the Governor?

A. It would depend largely on the extent of restriction. If you restricted so that there was a consistent demand for oil the price would probably go up to a point where those who are not taking it out of storage today would find it desirable to do so. Now, you know probably and I know that it costs on an average better than a dollar a barrel to produce oil in this State and Oklahoma, which are two of the lower cost producing states. Now, it would probably reach—could reach and properly in my judgment reach somewhere around the cost price of production before production would be encouraged to a point where it would stop the price or where they would take out of storage to stop it.

Q. Do you think if that law were passed the major companies would continue to discriminate against East Texas as to the price paid for crude oil?

A. I don't know what the others would do, but if it is properly con-

trolled and they do what I think is their part, we would pay the same price for that oil as for North Texas oil.

Q. Yes, sir. Then it is a question in discriminating between East Texas prices for crude oil because of the lack of any law being passed by the Legislature?

A. I don't call it discrimination.

Q. Well, of course, in your position and my position we probably see it differently.

A. I think about it like this—(answer interrupted.)

Q. Yes.

A. Suppose you go down on a ranch and a stream ran through your ranch and through another and then another one and there was shortage of water; on your ranch you bring in a lot more cattle, knowing if you bring in enough you can drink up all the water and disregard the man down stream. Now, would you be discriminated against if they were buying cattle from you and others and should buy all of yours and disregard the man down the stream, or would it be fair to buy his cattle and leave yours? I think it would be discrimination to leave you with all your cattle; and the same way about oil; when one disregards the interests of others it is not discrimination to take his oil at whatever price he can get for it.

Q. Answering your question, I think it would be a matter of enforcing the law by the duly constituted authorities of the State rather than by the men buying the cattle.

A. Well, I am willing to accept the orders of the duly authorized authorities of the State. If they will solve it, it will satisfy us.

Q. But at this time, as you have already stated, you are refusing to connect with wells in East Texas because of the fact they might want to violate the Railroad Commission's orders?

A. No, no, that it not true. It is impossible for us to connect to all properties. I think it is impossible, or at least impracticable, for any company to connect to all the properties. I don't know how many properties there are, but I understand there are something in the neighborhood of three hundred odd properties. You can realize, I am sure, that it isn't practical for our

company to connect to all of them.

Q. I am sure of that.

A. We can connect to some. We can connect to as many as—well, let me put it another way, we can connect to as many as total up in their allowables to the capacity of our lines to take it out, including the proper allowable, proportionate allowables from our own properties. Beyond that we could not connect to other properties; someone else would have to do that.

Q. And taking only the allowables from each well in East Texas?

A. Yes, sir, that is my understanding and that is the instructions to our pipe line people.

Senator Pollard: I am much obliged, Mr. Holmes.

Senator DeBerry: I want to ask the gentleman a few questions.

The Chairman: Senator DeBerry.

Questions by Senator DeBerry.

Q. Mr. Holmes, if I understand you, you said that oil ought to be selling somewhere around a dollar a barrel?

A. I think oil ought not to justly be forced to sell at less than cost. There is no profit to the consumer in a condition that forces the producer to produce a product at a loss, so on that theory, and with the knowledge that it costs on an average of more than a dollar in these two States of large production to produce oil, I would arrive at approximately that figure.

Q. I wasn't trying to pin you down to any particular figure, but to get a basis to work on. You say it is a dollar, theoretically. If all purchasing agents today were forced to pay a dollar a barrel for oil, do you figure that the refined product would go up or down?

A. Well, I figure that refined products would go up; they would have to go up.

Q. If refined products go up, who pays the bill?

A. The consumer, necessarily.

Q. All right. If oil was selling at a dollar a barrel and refined products were to go up, and there was to be discovered in Venezuela, or some other place, immense amounts of crude oil of a variety or texture, or whatever the word is comparable to oil, and you as the representative of a company, would you increase your imports, or not, if

you could deliver it at Houston for thirty or forty cents a barrel?

A. Well, I think if I were producing in Venezuela and were interested at all, as I am, in the stability of the situation, and this country was producing its oil in an orderly way, contributing to that stability I would do nothing that would tend to break it down. If I brought in any oil it would be in such quantities as were fair and would not result in demoralization of the efforts that have been made here, and I believe in view of the fact that the interests in Venezuela and Columbia and other countries are represented by the same interests in this country, that generally that would be the feeling and conduct of the others.

Q. Well, if your company and four, five, six or seven more companies owned the large percentage of the potential production in the United States, and by restricting in the United States and increasing your imports you could still maintain a good market, would you do it? If it didn't break down the market would you do it for your own pecuniary gain?

A. Well, that is a little difficult to answer.

Q. I could answer it quick, if I was up there.

A. How is that?

Q. I could answer it quick if I was up there. I would say "yes" if I was up there.

A. Let me say this: If you have in these different States, if you have cooperation between these States regulating your product, that can have a great influence on what would be done in the way of imports from other countries, so they might not be free to do just as they individually would be possibly inclined to do.

Q. Mr. Holmes, when I question a witness I sort of put myself in his shoes, and if he answers it like I think I would answer it I am more apt to believe him than otherwise, and I know if I could make more money doing that, without breaking down my whole market, I would do it, and I believe you would too.

A. I appreciate what you say fully, but today the Texas Company is buying two-thirds of the oil that it uses east of the Rocky Mountains; we could produce today every barrel we need, and more. We have shut in something like two hundred thou-

sand barrels a day. That has been shut in through all of this effort to bring about this conservation control. We have had shut in production, and others have. Now, we could produce our own oil and buy none; we don't do it. We think that our contribution, if it is a contribution to this, is ultimately worth while.

Q. I can understand that.

A. And I feel the same way about imports. We own property in Venezuela, and we could have brought in many times oil for less than American oil, and we didn't do it. I think that answers your question. We could have done it, but we did not do it.

Q. As a matter of public policy or government control, or government interference, in the name of "conservation" or the "dear people," or what not, if it results in competition arising outside of the borders of the country that seeks to protect itself, doesn't history show that has a tendency to cause competition on the outside, competition in the production, of course, in oil they might not could bring it in, but in sugar and coffee and rubber, wasn't that the result?

A. Yes, that is true, and that is the tendency, of course. This is the point of distinction, at least between coffee and wheat, in coffee and wheat they endeavor to buy up, and store up all of the production which is what we have been trying to avoid. We don't want this excessive storage which has a bear influence on the whole situation. Their mistake, I think, has been in not restricting production—

Q. (Interrupting) I agree with you very heartily. The point I am trying to work out is this: If you by artificial methods lessen your own price within your own borders, and competition arises outside of your borders, isn't it the natural inclination of men that want to make money to take advantage of it, and don't they do it?

A. That is true, some of them do do it, and generally that would be the effect, but you have the opportunity to a certain extent for a remedy, you can, if you are forced, you can put a duty on, or you can have a tariff.

Q. Yes, all we fellows down here that raise cotton understand that,

we have worked on the back end of that thresher. Wasn't it the intent of your company when you bought holdings outside of the United States to be able to protect yourselves if oil got too scarce or too high in the United States?

A. Well it was very largely for the first reason. With the very large refining and distribution capacity we felt under the necessity of having reserves for the future and that is one reason we are strong for this conservation. We have these hundreds of millions of dollars in the business and we are concerned about the value of those facilities and what business will be ten, fifteen or twenty years from now, and that is why we went into Venezuela and Columbia, was to have land which we could hold and not be under the necessity of developing at this time, as a reserve.

Q. But if oil was to get very scarce and very high here, you would naturally draw on those resources down there more, would you not?

A. Yes, sir.

Q. As long as it did not jeopardize your retail market in this country?

A. We would, yes, sir.

Q. If under conservation law— isn't conservation law more or less of a tariff?

A. A tariff?

Q. Isn't it desired to have the same effect as they claim they want a tariff to have, as to price— not as to future generations, but as to price?

A. I think it tends to stabilize the price and avoid the very low prices. Of course, in a tariff, it has the effect of preventing foreign competition which may bring down the price. If it is protective of the whole industry and has the effect of maintaining a better price than it could be maintained at with foreign competition, that is the theory and the effect.

Q. It would be grateful to you and your associates, would it not, if this conservation law could boost the price of crude oil so that the price of the refined product would go up maybe to a dollar or a dollar and a half a barrel, and gasoline back to twenty—nineteen or twenty cents, and so on and so forth. Would that be all right with you all?

A. It would be very satisfactory

to get better prices for both. We are not anxious at all, we are not desirous that gasoline prices should be excessive, and I am sure they could not be with the very large number of units that are marketing it, but it is desirable, very, that both be higher in order that we can be reasonably prosperous, at least avoid a loss of money in our operations.

Q. If you were a Senator that lived in a District that did not have any oil wells—that raised cotton, your people raised cotton and were dodging taxes and foreclosures every minute, and when the Senate was discussing this oil, if you were a Senator would you have anything to suggest to help those people out, by some conservation, or tariff, or subsidy, or lifting yourself by your own boot-straps, or anything like that?

A. I think I would feel justified in supporting what I might conclude was a constructive effort to lift any industry out of the situation that we are in today. I know how the feeling in the country is about cotton. We are quite as much concerned in the North when cotton is selling at seven cents as you are. We are not quite as directly affected, but indirectly we are tremendously affected by the depressed condition of the cotton producing States, when you are losing money or not making money on cotton. If I were a Senator in Pennsylvania or New York or Wisconsin, or wherever it might be, I would think that I would have no difficulty in convincing myself that I should support any proper constructive measure that would help you to get at least the cost of your cotton and a fair profit.

Q. I think that is generally accepted everywhere, that any business structure that doesn't allow a fair return for labor or investment, and things of that kind, will finally break down. I think we are all understood on that. I am getting back to the proposition of the jack-pot I find myself in. If by artificial methods, and it is artificial whether it is tariff, subsidy, or in the guise of conservation, because you admit it is done for price—the perplexity I find myself in is with respect to cotton and wheat and things of that kind. Have you any well defined State legislation for cotton, or for wheat, or for oats, or potatoes?

A. No, I have only a theory. I have this theory which cannot by

any chance be new, that the only way to correct, the only reasonable way, is to avoid over-production. Now, whether that can be done by cooperation, or whether in the protection of some it has to be done by law, I don't know, but that is the source of that trouble, and that is one of the very serious conditions in all industries—the over capacity to produce and the over-production.

Q. It may seem like I am getting a little afield, but I am not, but I am interested in wheat and oats and cotton much more than I am in oil, because I buy my oil, my people buy oil, and we sell the other products; do you know of any conservation bill today with respect to helping the wheat growers in Texas, the cotton growers in Texas, the peanut growers in Texas, anything like what you hope to get out of this Legislature for the Texas oil industry?

A. No, sir.

Q. Nobody else does and never has. Now, if, as a governmental policy you tariff for industries, and you subsidize the railroads and you conserve for oil, who is left out in the cold. Would it not be the farmer? The wheat grower? The cotton grower, the potato farmer and the peanut farmer?

A. I think that is unquestioned.

Q. Extremely so.

A. I think in oil there is at least an excuse.

Q. I understand that you have a plausible argument for oil (because oil is on the stand).

A. Yes.

Q. But if you by artificial methods lift up this one and this one and this one and make the man who is selling in the cut throat competition pay an increased price for his oil and for his shoes and for his bread and for his hairpins and for everything else, where is he finally going to land; when are you going to get him?

A. You have asked me a very difficult question, but I may say this I believe the interests of the Army and the Navy and the national protection it offers, is that a reason, and excuse for some artificial activity in the oil business. Now, today, about eighty-five per cent of all of the installed machinery horsepower in the United States is operated by gasoline. We are using in the world about ten times the gasoline that was used in 1913; that is a tremen-

dous growth, and as we go on we are going to be more and more dependent on that fuel. No one, however optimistic they may be about substitutes, no one can believe that it is possible to find substitutes in sufficient quantity to replace the petroleum products to support this system of transportation that is growing so rapidly and upon which we are so dependent. Now, if we in ten or twenty or thirty years find ourselves short of petroleum, and had to find something else or go to some other country, then we are going to have to pay very dearly for it.

Q. I think I understand that, in fact I never saw anybody being tried that did not have a good case; but back to the broad plain of public policy, whether it be state or national, if the governmental policy is so plainly obvious as it is now, that you subsidize this and that and the other, and leave out this and the other, the absolutely benefitting one class to the detriment of another class; is that so, or not so?

A. Well, I—I am just constitutionally a free trader, so to that extent I am arguing against this case; I have always been of the opinion that more often than not artificial stimulation or aids by tariffs result in evils that are quite as bad as result without.

Q. No doubt of that; the man that can't see that he is going to disrupt democratic government—I don't want to make a speech—let's get back to that line of public policy—a man says he is a free trader, but when his ox is gored he wants subsidy, then he is not a free trader, is he?

A. I don't really argue for subsidy, I do make this argument; we are in and have been in a condition in the oil industry for some years, apart from the merits of the conservation standpoint, which I think are ample; they have become supported and encouraged by public authority on their merits; they had no merits as individuals in the oil industry, so I think it has merit as a conservation measure in itself. I think we are in a condition today where, apart from that, we are warranted in giving consideration to measures that will aid those in distress. If the oil industry drifts on as it is today, waste will result and a large per-

centage of those in the business will be bankrupt.

Q. I understand that—the reason I am bringing this point out is because it is so evident, and I think everybody agrees it is evident, that each time you lift an industry by interference with supply and demand, and that is what you are doing, and everybody knows it,—now, I will ask you this question: We had a witness yesterday on the stand and he argued for conservation purely to eliminate waste. The price is in it with you, is it not?

A. Primarily I agree with you, to avoid the waste of any of these products. I think it is inexcusable for the nation to permit of the waste of its exhaustible resources; at the same time, I am, of course, interested in the price, that we may have a proper and not an improper value.

Q. If I by a twist of the wrist could stop physical waste and it did not boost the price, would you want me to twist my wrist again to boost the price up?

A. I think today I would like for you to make that second twist.

Q. If I could through legislation or through a twist of the wrist, eliminate all physical waste, but it did not reduce production enough to boost the price, would you want me to twist it again to boost the price?

A. Yes, I said I thought I would like for you to make that second twist; but I believe if you went the first step fully, and in the extreme, that you would, in a very large measure, correct this condition.

Q. Yes, that is possibly so, because that is so vague when they talk about underground waste. Now I want to ask you a little with respect to some questions Senator Pollard was asking you as to how you arrive at a posted price; you all posted a price yesterday or the day before in that field, did you not?

A. Yes.

Q. Were those prices up or down from the prices you had before?

A. Up.

Q. Why did you "up" them?

A. We "upped" them for two reasons, I think. The first reason was we would like to encourage and compensate the producers who have made the effort to control their production within the recommendations of these commissions, and so forth. They even

went so far in some of the other fields as to shut their wells down entirely. We were perfectly willing to pay more, although we are losing money on it in the market. The Magnolia did not follow the previous cut. We were frankly quite put out about the East Texas situation, but we followed the Humble cut before because of the conditions of increased production in East Texas, and we thought they were just going to produce with total disregard for the other interests, so we thought we should not pay the price we were paying; they were breaking it down themselves. The Magnolia did not follow this last cut, and I think two or three smaller companies did not follow. Even before I left New York I wondered whether in fairness to these other fields we should not restore that price to the previous figure. I talked it over with our people in Houston and in a day or two, or rather a day or two ago, it was announced the Continental, which was one of the smaller purchasers, had increased their price, and I think, Skelly and Phillips and some one else in Kansas had increased their price, so I felt we should so do, and we did.

Q. All right. Now, do you all very often—a while ago it was said in answer to a question by Senator Pollard, that your company was about somewhere from third to sixth in purchases of crude petroleum?

A. Somewhere in that range, yes.

Q. Sir?

A. Yes.

Q. I was not trying to pin you down to any particular figure. In this instance, somebody preceded you in the lift in price. Do you ever lead a raise or a cut in price, your company?

A. Yes, I think we have, but I don't remember any specific instances.

Q. Well, wouldn't it be a little bit hard out of you six major purchasing companies, to find out who leads these cuts and lifts in price?

A. It is not hard to find out because immediately they make the change it is known and communicated to us. They post their prices and that is known immediately; that is sent out to all their connections advising them of the change in price.

Q. You said your company very

seldom took the lead in a decrease or increase?

A. I say there are instances where we have, but as a rule we have followed the posting of the other companies.

Q. Who usually leads in this posting?

A. There are different ones. Down here in the Texas the Humble Company is more often the one to lead in the advances or cuts. In Oklahoma that was for some years the Prairie Oil and Gas Company. At that time the Sinclair led sometimes, and sometimes the Carter and sometimes it is the Gulf, and in some instances it has been the Texas Company.

Q. In your distributing end does your company follow the policy of meeting cuts or increases in the price of gasoline very often?

A. Well, we more often initiate, I think, price changes in the refining market than we do in the crude market.

Q. Yes. When you cut a price in gasoline what do you do it for?

A. In every instance it is because of underselling or a cut by others.

Q. Yes.

A. Now very often we—in the market—may be undersold by a great many people before any change in the announced price is made.

Q. Yes. —Let's try it going up; if gasoline were 16c in the Texas Company stations around here, and you were making money at 16c, and somebody would go up to 18c, would you go up to 18c or stay at 16c?

A. If that 18c were an excessive price, and if it were excessive it could not be maintained, because someone would undersell it, we would not follow. There have been many instances where companies have raised the price and others have not followed, and those who raised the price have been obliged to fall back. That is the protection in price.

Q. Are you familiar with the method in Texas of posting increases or decreases in the retail price of gasoline?

A. Not any more than I just know if they increase in price that they must communicate to the people to whom sell.

Q. You may know how it is done in New York as well as I do down here.

A. Our practice is to post our

prices at our stations from which we sell, and that of course is very quickly known to the competition.

Q. Is it very commonly the instance that in Austin, Texas, and Waco, Texas, you buy Texaco gasoline at a different price from Humble products?

A. I would say that generally you are buying in a Gulf station or in our station, that there would be very little variation in price, because if they went up and we did not follow we would lose the business and would have to drop back, so the effect is that the price is generally the same in different stations in the same place.

Now, if you buy from some dealer who has our pump, he may be underselling, because he is selling on a margin, and sometimes we find our products in stations at prices below which we sell them in our regular retail stations. And you might be able to buy in Waco cheaper than in Fort Worth, for example, because there may be a certain competitive condition.

Q. You more often find those local competitive conditions where you have independent refineries, do you not?

A. Sure, where there are independent refineries or where their vaporage is small into that section.

Q. Isn't it rather strange that if you are like me, and you start out in your car and wonder you are paying 16c for gasoline and then the next day you find that there has been a boost in the price of 17c and before you can drive from the Texas Company to a Gulf station it would be up over there; isn't that just a little strange?

A. I don't think it is strange. I think you can find it nearly always if a condition warrants a slight increase, and we do initiate them, if the conditions did not warrant and we were to initiate it and everyone followed it we would be very hesitant about initiating it, because in doing that we are likely to lose some business; the business would go elsewhere.

Q. Would the traffic bear it, is that what you mean by it being too high?

A. Today we know that we should have a better price for gasoline. Now if competitive conditions if there were not too many under-

selling the price as they are today we would initiate a price increase.

Q. In the retail end?

A. Yes, sir, but there are so many underselling the chances are none would follow and the next day we would go back, but if we were confident today we could get an increase of a cent a gallon we certainly would initiate that increase.

Q. How high would you go?

A. Well, I wouldn't attempt more than a cent.

Q. If the traffic would bear two cents you would go two?

A. If I thought it would bear two I would go that much, yes, sir.

Q. I can see some reason where if somebody does make a competitive cut against you that you would follow but I can not see if he posts a raise why you would have to follow if you were making money at the price you were then selling at?

A. If you are making too much money they won't follow.

Q. I don't know what that is, making too much money, I have never had that experience?

A. Well, if you were in any merchandising business, whether hardware or groceries or whatever it might be, in a community you would be better off as a merchant if you tried to maintain a price at which you all could make a little money. If you pursued the policy of underselling that other man he very likely comes down too. Any others can cut the price down, but very few or all of us could get it up, we can't. A dozen of us could not come up with the additional hundred who are marketing. We would like to get it up, but we can't.

Q. I have heard some statement, and I would like to know is there an understanding between the large companies about the posted prices with respect to selling gasoline?

A. No, there is not at all, absolutely.

Q. I want to ask you two or three more questions and I will thank you kindly. Your company is engaged in the production end of the business and is also engaged in transportation and refining and the sale of it, are they not?

A. Yes, sir.

Q. Do you think the company today could be successfully conducted by engaging in just one of

those three occupations solely, over a period of years?

A. There are companies that are producing units, and there are others that are marketing units.

Q. Separate from all others?

A. I am not talking about what they have done. With the present conditions, the pipe line conditions, the refining conditions that exist today, under all of the conditions that exist and all of the companies taken in consideration, would you today advise the investment of any considerable amount of money in the oil business that would just take the production end of the business by itself?

A. No, I wouldn't.

Q. Would you advocate one to take the transportation end of the business under the present conditions?

A. I would not.

Q. Would you advise one for the refining and distribution by itself?

A. No.

Q. Well, in other words, today it is practically impossible for a man to succeed in any reasonable large way, it would be your idea he would have to engage in all three of them would he not?

A. I think one can succeed in business in one of these, but he is not as secure or as safe, it is more of a gamble in any one than it is if you have the whole thing and can carry on. If you have it all, you are obliged continuously to spend additional money to keep up with the development in one branch or the other, there is no place to stop. That is one trouble about the entire operation, there is no stopping place.

Q. It is rather conclusive that the power to succeed in either one of the three fields is less than it was several years ago?

A. Yes. Under the conditions now there is not the opportunity.

Q. Do you think the hazard is increasing or decreasing?

A. I think it has decreased with the over-production and the results in very low prices, unquestionably; the opportunity for secure enterers into the business has decreased because of that condition.

Q. What percentage would you guess, if you don't know, or would you speculate if you don't know, what percentage of the filling stations in the State of Texas are

owned by what we term major companies?

A. I don't know about the other companies. Our percentage of owned and controlled is a little over sixty per cent in Texas.

Q. Sixty per cent of all of them?

A. Yes, sir. It is less than that throughout the country generally, but I think that is representative of conditions with others, some more and some less possibly.

Q. Would we be safe in saying that the major companies control eighty, eight-five or ninety per cent of the filling stations in Texas today?

A. No, I don't think they control that amount.

Q. That is either own or control.

A. No, sir, I don't think so.

Q. There are some figures that high, I don't know whether it is true or not. Does that increase the hazard of the little station operators?

A. I was quoted as saying we have seventy per cent, but I didn't say that, I said "sixty," there is a lot of misinformation about.

Q. I understood you to say your company owned sixty per cent?

A. Yes, sir, but I say I was quoted in the paper yesterday as saying seventy, and that was incorrect.

Q. Would we be safe in saying that the major companies own eight-five or ninety per cent of all the stations?

A. No, sir, I don't believe they do.

Q. What would be your guess at that figure?

A. I don't believe it averages more than ours, taken on the whole, not over sixty per cent.

Q. All right, we will leave those figures alone for a minute. What do you think about the hazard of the independent filling station operator today as compared with what it was ten years ago, or five years ago?

A. I imagine today he is about the only one making any money. Now there is the condition we are all competing for his business, for his outlet, and that competition results in a very considerable margin to those filling stations. He is about the only one I know who does have practically the same compensation regardless of the price.

Q. It is not a fact, Mr. Holmes, that the independent filling station

operator is practically being driven out of business?

A. I don't know it, if that is true.

Q. I think it is very obvious. I don't know.

A. Of course, you know this condition I am sure, that very often and quite generally in some sections filling station operators who have the advantage of this competition among the manufacturers for that outlet who buy their products and sell them for less than that same manufacturer sells it in his own station. Now that brings about demoralization of the prices; that is one of the factors of demoralization. I am not against the policy at all but I do think it is wise for him to have the same consideration for the others in competition that you would have for your neighbor merchant if you were a merchant and it is conceivable that he might bring about the necessity for companies to own and control all of their stations in order to maintain anything like a fair price.

Q. I want to ask you about two more questions, it is about twelve o'clock and I want to ask you another question. A while ago when Senator Pollard was discussing and asking you about the price of Pennsylvania oil I understood you to say that one reason it was particularly valuable was on the account of the type of lubricating oil that could be made out of it, is that so?

A. Yes, Pennsylvania oil is what is known as cylinder stock based crude, all of their crude produces a good grade without chemical treatment of steam cylinder oil. Now there are very few of the other oils which produce—

Q. Well I am not particularly interested in that detail.

A. Well, that is one of the valuable fractions of crude which has become valuable in Pennsylvania oil.

Q. I knew it was good because they are still charging me the same price for Quaker State Oil that they did three years ago. It must be mighty good. The Texas Company makes high grade cylinder oil, do they not?

A. It does.

Q. Do you use Pennsylvania Oil?

A. No, sir.

Q. Is your oil as good as Quaker State?

A. Yes, sir.

The Chairman: I make this statement as chairman of the Committee of the Senate, the House has passed the Loy Free Bridge Bill. Mr. Loy would like to have that Bill brought over here and passed as rapidly as possible.

Senator Woodward: I move that the committee recess until two o'clock.

The Chairman: Motion has been made that the committee recess until two o'clock, all in favor of that motion let it be known by saying "aye." The "ayes" have it and the committee will stand adjourned until 2 o'clock.

Afternoon Session 2 p. m.

The Chairman: The committee will come to order.

Senator Poage: Mr. Chairman. I would like to interrogate the witness.

Senator Martin: Mr. Chairman.

The Chairman: Senator Martin.

Questions by Senator Martin.

Q. Mr. Holmes, it is possible for a man who is familiar with the oil industry to calculate exactly the cost of production of a barrel of crude oil in any oil field, isn't it, or approximately so?

A. I think that is true. It is possible to calculate the production of a field.

Q. Ordinarily you find no one that knows anything about it except the man who is particularly skilled in that particular line of work; is that not true?

A. Well, they are more likely to have real, accurate information than any one else.

Q. Now, if the State of Texas were to create a Conservation Commission that Commission in order to be able to function properly would necessarily have to obtain such information from some source, wouldn't they?

A. I think they would; I think they should.

Q. Ordinarily they would have to get that information from an oil man, wouldn't they?

A. Yes, from oil operators.

Q. All right. Now, in order to control the production of oil and the prices of oil they would have to get the information from some man

who was familiar with the oil industry, wouldn't they?

A. I would think, so, or necessarily they would have to investigate the accounting records of those interests, by some one who was competent to make the investigation.

Q. Now, after the Commission has obtained such information as they would require or need with reference to the cost of production and with reference to the amount of production the Commission could enter orders governing the production and also the price, couldn't they?

A. I should think that would depend upon the authority vested in the Commission.

Q. Well, under your idea you think they should be permitted to govern the price, don't you, in order that the companies in the business may obtain a reasonable return from their investment and yet at the same time hold back and conserve the production?

A. I feel that if the Commission acts wisely and in the interest generally of all, that they should be just as fully informed as possible.

Q. Well, Mr. Holmes, you didn't answer the question. But you believe that the Commission when created should set the price of production or price of the crude oil in order that the producer might retain a fair and reasonable return from his investment?

A. No. No, I don't believe that any commission should set the price. If I have given that impression, it is erroneous. I was quoted in the paper in the head lines as saying that, but I have not said that.

Q. This Central Committee of which you have spoken a few times here has so recommended?

A. Recommended that they fix prices?

Q. Yes, that they be permitted to fix the price?

A. Not that I know of.

Q. If they have recommended that, then, you don't know about it?

A. I do not.

Q. All right. Now, then, assuming that the State of Texas sets up a Commission, the Commission has to appeal to an oil man to arrive at the cost of production and the amount of production, and the Commission desires to see the investor receive a reasonable return on his

investment, yet not deplete the stock—that is, not deplete the production—they would have to set the price, wouldn't they?

A. No, I think that would not be a necessity, and I think it might be an objection, to set the price. I would recommend, and what I have tried to convey in my answers to your questions is, that they would so conduct their control of production that it might result in the avoidance of conditions which bring about the sale or the disposition of oil at away under cost. Now, so far as getting the cost is concerned, that is a comparatively easy matter.

Q. Now, Mr. Holmes, you say you want to bring about a condition where they will not sell under cost?

A. Where they will not be forced to sell under cost.

Q. Where they will not be forced to sell under cost. All right. Then the Commission would have to have something to do with the regulating of the cost, wouldn't it, or the price of oil?

A. Not necessarily. May I illustrate?

Q. Wait a minute. I have these matters in my mind; let me get through with my questions and then you can illustrate.

A. All right.

Q. Now, the petroleum industry is recommending a Commission in each of the oil-producing States at this time, isn't it?

A. Yes, sir; that is, a good many of us are.

Q. All right. If the petroleum industry should get a Commission set up in each State, and that Commission under the rules and regulations which it might adopt, being in each State or being in accord one State with another, they could to a certain degree regulate prices, whether they intended to do so or not, couldn't they?

A. They could affect the price. I doubt that they could or would regulate it.

Q. All right. They could affect the price?

A. Yes, sir.

Q. Now, then, if the petroleum industry today were to go into an agreement one with the other to put the price of crude oil anywhere in any field at any price and they were to be caught at it they would be

prosecuted for violation of the anti-trust law?

A. They would, undoubtedly.

Q. But if they could work the same thing through a Commission they would be immune from prosecution, wouldn't they?

A. Yes.

Senator Martin: That's all.

Senator Poage: Mr. Chairman.

The Chairman: Senator Poage.

Senator Martin: Mr. Chairman, just one question I overlooked—just two or three more questions.

Questions by Senator Martin:

Q. Mr. Holmes, do you know—this is being asked by request—an ordinary East Texas barrel of oil, about what different products are manufactured out of it? I don't mean for you to name them, but do you know in your own mind about how many different things?

A. I just know that crude is producing gasoline, kerosene, fuel oil, and it might produce some wax products and so forth. It is not especially—(answer interrupted.)

Q. You are not familiar enough with the chemical analysis to state how much of either one, could you?

A. No, sir.

Q. Well, then, you could not let the Committee know at this time what the value is of a barrel of oil after having been manufactured—that is to say, you take gasoline, take paraffin and all other by-products; you could not tell?

A. No, sir, except I can say that the value—

Q. What?

A. The value in those crudes, in the products, is less than the average cost of the crude in Texas today, because the general average is being produced and marketed at a loss.

Q. The thing I was getting at, I assume from the questions you answered this morning that you are not familiar with the chemical analysis—you could not give us how much kerosene, how much gasoline, and so forth it would be?

A. Not with accuracy.

Senator Martin: That's all.

Senator Poage: Mr. Chairman.

The Chairman: Senator Poage.

Questions by Senator Poage.

Q. I want to clear up one thing that I didn't get very clear this morning. You stated this morning in your explanation, before the ex-

amination had started, that this price cutting began sometime last year up in the Panhandle, that is, men began to sell under the posted price up there—that was the first place it became noticeable, the selling of oil at less than the posted price. Is that right?

A. In Oklahoma and the Panhandle were the first places where that happened, in quantities that really affected the price conditions.

Q. Affected the market?

A. Yes, sir.

Q. Are those places where there were pipe line connections at that time?

A. Yes, sir.

Q. At those places is where the price cutting activities started?

A. Yes, sir.

Q. Then, the thing I do not understand is how these people came to sell their oil at less than the posted price if there were posted prices and you and the other companies were taking all the oil and they had pipe line connection, couldn't they sell at the posted price?

A. They were producing more than the allowable and more than the purchasing companies could take.

Q. They were producing more than they could sell at the posted price?

A. Yes, sir.

Q. Then, I understand that. Now, as to the present prices in North Texas, I believe that the Texas Company raised the price a day or two ago in North Texas and part of Oklahoma?

A. Yes, sir.

Q. Northwestern Texas. And the Continental raised it two or three days before that?

A. Yes, sir.

Q. The Continental is a standard subsidiary, isn't it?

A. The Continental Oil Company was, but the Continental Company today is a combination of the Marland Oil Company, which was not a Standard Company. That is a new development and the Old Continental which was a marketing subsidiary of the original Jersey group, and some other acquisitions which constitute today the Continental Oil Company, they took in the Mutual Oil Company in Wyoming and Colorado.

Q. Their headquarters are at Denver?

A. No, sir, Ponca City, but the

Continental did have their headquarters at Denver.

Q. They are now in Oklahoma?

A. The headquarters of this consolidation are in Ponca City.

Q. Now, as to the price in North Texas, I believe you stated this morning you felt the people of North Texas should get a better price for their oil when they have tried to obey the orders of the Commission than where people have made no effort to obey the orders of the Commission. That is right, isn't it?

A. I feel that, yes, sir.

Q. I think that is a laudable way to feel about it, but isn't this thing true, Mr. Holmes, isn't there a much larger per cent of that North Texas oil refined by Independent Refiners than of the East Texas Oil?

A. I don't know about that. There is a large quantity of East Texas Oil going to refineries all around, over into Louisiana, Arkansas, down in New Orleans, throughout Texas, and some I understand has gone as far as St. Louis, it is just going in all directions so I couldn't tell you with any degree of accuracy the percentage that is going into the so called Independent Refineries.

Q. There are quite a number of Independent Refiners in and around Wichita Falls, are there not?

A. Yes, sir.

Q. They use a relatively high percentage of local oil?

A. Yes, sir.

Q. As a matter of fact how much oil does your company buy from that territory? I don't mean in barrels, but do you buy large quantities or are you a small buyer up there?

A. Well, I don't know. I should think that North Central Texas and the Panhandle section, possibly 15000 barrel a day.

Q. You don't have any refineries up there, do you?

A. We have a refinery at Amarillo and one at Dallas.

Q. You have none at Wichita Falls?

A. No.

Q. Mr. Holmes, what I am getting at is this: Several days ago before this new posted price went up I noticed in the newspapers the North Texas Refineries said they were not able to buy enough oil to run their local refineries around Wichita Falls. Do you know whether that is true, or not?

A. There has been a decrease in production, some wells have been shut in and reduced voluntarily, and I believe that is the condition, if they have been short of oil.

Q. If it were possible for the major companies to raise the price of oil that those Wichita Falls and North Texas and independent refiners would have to pay for their crude oil, it would work a much greater hardship on those independents than on the major companies, would it not?

A. I doubt that it would because this has been the condition over a period of years, when we have had conditions in production where there was just enough, or not an excess supply, and the market conditions have been enough better so that the small refineries, even when they paid a premium, have been in better condition than today when they buy oil even under the market.

Q. But if you raise the price of oil in the North Texas area and do not raise it in East Texas, you are in position of being able to manufacture gasoline out of ten cent oil from East Texas, whereas the local independent refiners at Wichita Falls had to pay forty cents for the oil out of which they manufacture their gasoline?

A. That may be the condition, but I am sure you recognize that the increase in price is certainly not for that purpose.

Q. I am not charging that it is, but it does have that effect.

A. And we at the same time put ourselves to this same disadvantage, that when we are paying these prices in Oklahoma, North Texas, and some other refineries are getting their entire supply at ten or fifteen cents and meeting us in competition. We have the same problem they have.

Q. I recognize that, but you only get about 15,000 barrels of oil of that high-priced oil?

A. We are large buyers in Oklahoma, West Texas, all over.

Q. How do your purchases in West Texas and Oklahoma compare with your East Texas purchases, Mr. Holmes?

A. Well, they are greater.

Q. The sum total of them?

A. Yes, sir.

Q. The sum total of the forty-cent oil you are buying in Texas and Oklahoma is considerably greater

than the sum total of ten and fifteen-cent oil you are buying?

A. Yes, sir.

Q. Is that true of all the major companies?

A. Well, I don't know, but I think on the average it would be true, yes, sir.

Q. Could that be said to be true of the Humble Company?

A. I don't know about them.

Q. Are they paying forty cents for West Texas oil?

A. No, I understand they are not. I have had no advice of any change since their last price announcement.

Q. But it does have the effect of making gasoline higher, making the cost of crude oil higher to the independent refinery in North Texas who has no opportunity to offset that from the purchase of the cheaper East Texas oil, does it not?

A. Yes, sir.

Q. That is, those people up there can't buy this East Texas oil like you can because they can't afford to ship it to Wichita Falls.

A. It is true that they have to pay the charges.

Q. Do you know about what the charges are from East Texas to Wichita Falls?

A. Freight charges?

Q. Yes, sir, that is the only way they can get it.

A. No, sir, I don't know.

Q. It will run at least thirty cents?

A. Yes, sir, I think in excess of that.

Q. In other words, they can as cheaply buy that local oil at forty cents a barrel as they could to ship East Texas oil and buy it at ten and fifteen cents and pay the charges?

A. Yes, sir.

Q. Regardless of the purpose of this increase, it has the effect of working a hardship on those independent refiners, doesn't it, that is as compared with the men who are buying the East Texas oil?

A. It does, unless their particular territory—. If they are confining their marketing activities to that territory they are on par with others in that territory. If they are shipping outside where they are competing with East Texas oil, I would say yes, they are subject to some disadvantage on account of that.

Q. And the concern which has production, pipe line facilities and

refineries scattered all over the country has an advantage,—has an opportunity to meet them on a very disadvantageous plane, doesn't it? In other words, you have a big advantage by having your properties scattered all over the country, and so does any concern that has its property so scattered?

A. Well, we haven't any advantage over the man in the vicinity of Wichita Falls and North Texas, over the man who gets his production there and markets it there. We have an advantage over that man if he attempts to ship, we will say, into distant territory where we either have production or are buying oil cheaper than he can buy it where he is located. When he gets out of his territory, yes, sir, we have an advantage.

Q. Now, how does your company manage to sell in Wichita Falls in competition with those local refineries, Mr. Holmes? You refine at Dallas and Amarillo?

A. Yes, sir.

Q. Do you ship from Dallas and Amarillo back into Wichita Falls your refined gasoline?

A. Yes, I don't know which point we ship from, but we would ship from one or the other.

Q. You ship from one or the other?

A. Yes, sir.

Q. Does your company ever have gasoline produced on contracts by the independent refineries under your specification at local point for local sales?

A. Very seldom. There have been very few instances. We buy gasoline now and then. We bought some this year, a considerable quantity.

Q. There was a time when you had quite a bit of gasoline made in Wichita Falls, didn't you, for the Texas Company by independent refiners?

A. I don't remember of that.

Q. About five or six years ago?

A. I think we bought for export possibly, but I don't know that we bought any,—I am sure we haven't bought any for local distribution.

Q. Now, when you ship from either Amarillo or Dallas into the Wichita Falls area your freight rate is so high that it leaves you at a disadvantage with the local man, does it not?

A. Of course, that applies both ways. Now, if he markets at a reasonable price, with a reasonable profit to him and we go in there we will make less money than at the point of shipment. Now, in Dallas, we would have an advantage over him. We would not cut our price in Dallas because we have got an advantage over him, we would try and make a little more money in Dallas to save that difference in freight and reach his territory. If he came to our territory, it would be the same way. We naturally make more money in one place than in another, depending on the freight rate here and there, but as I say, he is not at a disadvantage if his capacity does not necessitate him shipping beyond the limit of his reasonable freight territory.

Q. Now, you testified, I believe, that you thought there was a place for the independent operator in the field of production. That is right, isn't it?

A. Yes, sir.

Q. Do you think there is a proper place in the scheme of the oil set up in the United States by the independent refinery, the refiner who is just in the refining business and nothing else?

A. I don't see any reason why there is not. It is true in every industry, there are large and small activities. And I would like to make an observation right there.

Q. Go right ahead, I want information.

A. Those who have succeeded in small operation as a rule are those who pursue fair, equitable market practices. When they do, they do not throw away the natural advantages they have in their locality, and they do not break down the entire price structure. Those who suffer are those who seem to think the only way to get a market is to undersell someone else. That is the easiest thing in the world for anyone to do and it naturally results in other people meeting them; it can't be otherwise. But, there is a place in every industry for any size, so long as it is carefully conducted, whether producing, marketing or manufacturing, or whatever it may be. There is no disposition, so far as I have seen anywhere,—there isn't on our part, I know, to feel that there is no place for small operators. We started here

in a small way, made our beginning here, and our sympathies have always been with the small fellow, if he is all right, in any line.

Q. Now, I know that your company probably does not buy as much gasoline as some of the others, in fact, I like to believe it is all manufactured under your specifications because I usually use it myself, but do you know the major companies as a whole make a practice of buying an appreciable percentage of their gasoline from independent refiners?

A. No, I do not think that is the general practice. The smaller refiners as a rule have their larger outlet through jobbers, of which there are a great many. That is probably in the hundreds in every state, so-called jobbers who have their bulk stations, and some distribution. The smaller refiners as a rule are tank car sellers. We are not tank car sellers. We sell practically all of our oil in this country through retail stations,—our gasoline. We have no tank car business at all except it may be some large consumer, like a tire company, or some one who has their own distribution, but the smaller refiners as a rule are tank car sellers.

Q. Well, do you know how far the practice has gone among the major companies, and again I don't think it applies to your company as forcefully as it does to some others, of swapping gasoline between themselves?

A. Well, I think that may be practiced in a degree, but I think it is a small degree. I think it would be all right, if they wanted to do it; but I don't think it is a general practice.

Q. I don't charge there is anything wrong with it.

A. But I am sure it is not a general practice. There are, no doubt, instances of that kind.

Q. Now, Mr. Holmes, your company does own some foreign oil resources, I understand?

A. We have, I think, something like two million acres of land in Columbia and Venezuela, but we have not developed production on that acreage.

Q. You are not producing any foreign oil at this time?

A. Only a small amount of Mexican oil.

Q. Are you familiar with the forms of contracts usually used in

Venezuela and Columbia—drilling contracts?

A. No, I am not.

Q. What I want to find out is information; and not to tangle you up, but I have heard it charged that most of these Venezuela and Columbian contracts are operated on concessions from the government, and that those concessions are ordinarily for a limited number of years; do you know whether that is true or not?

A. I don't know that definitely. I have understood, I may be out of order in putting into the record rumors, I have not definite knowledge, but I have understood that has applied; but whether that is a general practice, I do not know.

Q. It does not apply to your holdings?

A. No; it does not.

Q. In other words, you own those under either fee ownership or lease as in the United States, and can develop them whenever you see fit?

A. Yes.

Q. It has been generally stated as rumor, as you have stated to me, that a number of these larger companies did hold these foreign holdings under contracts with foreign governments that would compel them to develop their leases within a certain period of time, and if they did not develop them within that period of time, they would divert to the government?

A. I think that is possible.

Q. That would be an incentive for such companies holding such concessions to develop their foreign resources before they would develop their American resources; isn't that true?

A. Well, of course, if they have that sort of concession, they are under the necessity of developing it.

Q. And in that case, if they have such a concession as that, it would be better for them to develop that foreign resource and import the oil, even though the actual cost of such production was higher than the actual cost of oil in the United States?

A. That is possible, yes.

Q. Now, what I am trying to find out, and if you can tell us who can give us that information, I want him here, do you know who could give

us such information as to whether that condition exists or not?

A. I should think that probably anyone of the people who are producing in Columbia or Venezuela could.

Q. Who are those people?

A. The Standard Oil Company of New Jersey, the Gulf, the Standard Oil Company of Indiana, or the Pan-American, or the Shell, all are producers in those two countries, and no doubt, those people, who are actually producing in a large way, are fairly familiar with the details of the concessions and contracts that exist. I have not gone into that, because we have not gotten to the producing point, and it has been handled by our geologists and lease people, and has never come up for my consideration, the details of the operation.

Q. I don't feel it is hardly fair for you to answer questions concerning things you don't know anything about, but it is also rumored that there are contracts now outstanding in the United States with certain importing companies, to be filled with foreign oil; that is, they have sold so much foreign oil to be delivered in the United States?

A. I know of none; and the only one I have heard of, I haven't actual knowledge of it, but I understood the American Oil Company of Baltimore have a contract with the Pan-American for a supply of Venezuelan gasoline.

Q. Where is that gasoline refined, in Venezuela?

A. It is Venezuelan crude, but as I understand that is from this island I spoke of.

Q. It comes into the United States in the form of gasoline, does it?

A. I think supplying gasoline alone is their contract.

Q. Do you know what that foreign gasoline sells for laid down in the United States?

A. Under contract?

Q. Yes.

A. No, sir; I don't.

Q. It was reported in the press some weeks ago that there was a shipment of Russian gasoline sold in Baltimore for three cents a gallon?

A. I heard of it, but was unable to verify it. I never found anyone who knew anything about it. It was reported also that a cargo had

been sold in Chicago, but I think that is not true either.

Q. Can gasoline be produced in Texas at three cents a gallon with ten cent oil?

A. I should think it is possible, yes, with ten cent oil you might right there in East Texas make gasoline for three cents. That depends largely upon what you get for the other products of the crude.

Q. You have a large plant at Port Arthur?

A. Yes.

Q. Can you produce it at Port Arthur for three cents?

A. No.

Q. You can produce it for about four cents, can you not?

A. Well, I would not like to say, because that is being too definite, I should think in the neighborhood of that, or a little more, if you got your crude there for ten cents, you might do it; but that would be a little low, I think.

Q. Mr. Holmes, about what does your company get for gasoline now under the present prices? I understood the company lost money on the refining operations last year, and that most of the companies did. I believe you said the independents were about the only ones making any money on that?

A. I said I thought these independent filling stations—

Q. I beg your pardon.

A. Where they get a margin, regardless of price. I think they are about the only ones having a secure return.

Q. With gasoline retailing at twelve cents in Austin, Texas, can your company manufacture gasoline, with the present price of oil, so that it can retail at twelve cents in Austin?

A. I do not know; but I do know this, and I stated it over in the House: We have a refinery at Dallas, one at Amarillo, one at San Antonio, and one at El Paso. Those refineries manufacture and distribute very largely in Texas. We ship very little out of Port Arthur for Texas consumption. Those refineries for the first five months of this year lost us over two million dollars in Texas.

Q. Which would indicate that the price you were receiving for gasoline was less than the cost of production unless that loss be oc-

casioned by your filling station operators?

A. Well, that is a part of the cost of distribution; whether margin to distributors, or cost of operating your stations, that is part of the cost of distribution.

Q. But the loss might be in the distribution, rather than in the manufacturing. You might be able to manufacture gasoline, and manufacture so that under the present market that you can sell it at the cost of production to you, but still lose money on the distribution, could you not?

A. Yes; but the wholesale prices of gasoline all this year have been below what would be our cost of manufacturing.

Q. Now, we had a man on the stand yesterday who purported to be an expert in production of oil, and he figured it out that the manufacturer is only getting about one and a half cents per gallon for gasoline at the present time and the present price of retail gasoline. Do you think that is approximately accurate?

A. I understand it is being sold for that in East Texas at some of those refineries, though in Mid-Continent it is selling a little higher than that now.

Q. What we are trying to get at is whether gasoline is down at a price commensurate or proportionate with the reduction that has taken place in the price of crude oil, and we have been told it was, that gasoline has gone down to the same proportionate low level as crude oil has gone?

A. I think it has gone below it.

Q. You think it has gone below it?

A. Yes, sir.

Q. To the man that is chopping cotton that Senator DeBerry was talking about here to-day, he states he don't see that it has gone below. He is paying twelve to fourteen cents for that gasoline now, and crude oil at ten cents a barrel, and a year ago he was paying eighteen to twenty-one cents for that gasoline and crude oil at that time was a dollar and a half a barrel.

A. Let me explain that.

Q. Yes, sir, I would like for you too.

A. The only difference in the cost, the only appreciable difference now and at that time, with one dollar

and forty cents crude, or whatever he said it was, is the difference in the cost of that crude. Now your labor, your chemicals, your maintenance, your depreciation, your overhead, everything is the same, that doesn't go down with the cost of crude. You have all of your cost except just the difference in the cost of that crude oil to carry, your marketing cost is just as much, is more to-day because of the increasing number of stations, your thinner distribution, your actual gallonage cost is more than it was when the price was better. I would like to quote another figure.

Q. Yes, I am wanting information.

A. I have a chart here—I have written two or three articles on this conservation question. In February I sent a copy of this out to the members of your Legislature, I suppose you get so many papers you threw it in the waste basket, but this chart was in that article I sent out. The average filling station price of gasoline for the years 1921 to 1928, and that includes the 1921 depression, the average filling station price throughout the United States for those nine years was twenty-one and nine-tenths cents, inclusive of state taxes. The price today is twelve and forty-four one hundredths cents throughout the United States.

Q. That is inclusive of the tax?

A. Yes. The tax since 1921, has gone from .02 cents average in the United States, it has gone now until it is just a fraction over 4 cents, a gallon throughout the United States. Your gasoline including tax today averages about sixteen and forty-nine hundredths cents a gallon throughout the United States as against—well, that average back in 1921, it was about twenty-three cents, including the taxes. It is now, including the taxes, sixteen and forty-nine hundredths cents, that is including a four cents average throughout the United States. That is a decline of about eleven cents to the manufacturer, which is a pretty serious decline. The crude price however is down at this time, that is until the recent cut a few days ago, that was figured at forty-one and sixty-nine hundredths cents, but when you take into account that the only difference is just that difference in the crude, the others do not change, the cost of gasoline has

gone down away out of proportion to the cost of the crude.

Q. You haven't got in the amount that you allowed the retail distributor for handling the gasoline?

A. We have been endeavoring to change that margin, because in places it got as high as seven cents, that is in some states where the gasoline net became less than nothing.

Q. It has been about three cents in Texas, has it not?

A. I think that is about the figure now, yes.

Q. I had been told by some of these operators, at least it has been repeated to me, that in some cases that margin has been cut to two cents recently, do you know whether that is true or not?

A. No, I do not.

Q. And on about sixty per cent of your gasoline in Texas you do not pay that margin, you simply pay the cost of filling station operation directly handled it yourself?

A. That is right.

Q. It is only in those cases where you sell to independent filling station operators where you pay that percentage?

A. Yes, sir.

Q. And in those cases you also paid a wholesale distributor, or do you job it direct?

A. No, as a rule we deliver it to his station in our tank trucks.

Q. And that operation cost you about two cents?

A. Well, I don't know just what that is, it varies with volume in different districts. What we call our station costs are the costs of operating those bulk stations and trucking the gasoline out to our own stations but I do not have that figure, but most of the deliveries are made by truck to the filling station.

Q. I was trying to get at the fixed cost of operating filling stations. Those costs will run around two or three cents, whether you are selling to the filling station or whether you are operating it yourself?

A. It will very often run more than that. We have some stations where the gallonage is so small it will run above that.

Q. It will run about three?

A. I have seen it run as high as eight.

Q. It don't average that?

A. No, sir.

Q. The average cost won't exceed three cents?

A. With a fair volume three cents should cover the cost of dishing out that gasoline, that is operating that station.

Q. And two cents should cover your cost of delivering from your bulk station to the filling stations?

A. Well I don't think I have those figures well enough in mind to say exactly. I could get you that if it is of importance.

Q. No, I just wanted to try to figure out those fixed costs.

A. Well, they are not fixed, they vary with the volume.

Q. But they are fixed so far as the price of crude oil is concerned?

A. Yes, sir.

Q. That is, the variation of the price of crude has no bearing?

A. No, sir, none whatever.

Q. Neither would the variation of the price of crude have anything to do with the overhead from your refinery to Texas common points, which somebody testified was about two and a half cents on an average, do you know whether that is right?

A. There has been some adjustment in freight rates in Texas in the last year or two and I am not familiar with what the freight rates are.

Senator Parrish: Mr. Chairman, I would like to ask the witness a few questions.

The Chairman: All right, you may proceed, Mr. Parrish.

Questions by Senator Parrish.

Q. I would like to ask you just a few questions. About what is the total production in Texas as a whole?

A. I am going to have to approximate that.

Q. Yes, I understand.

A. I think it is possibly a little over nine hundred thousand barrels.

Q. If you know about what would be the consumption by the people of Texas per day of this oil based on the gasoline and lube, and different products?

A. What would be the consumption?

Q. Yes, in other words about what per cent of the oil, the total production, does Texas consume?

A. I will have to figure that for you.

Senator Woodward: Mr. Chairman, while Mr. Holmes is figuring

that out I would like to state that Senator Loy is very anxious to have that bill signed, and I move that the Committee stand at ease for two minutes. I believe the record should show, Mr. Chairman, that the Committee is at ease while you are doing that.

Mr. Chairman: Yes, that is right. Let the record show that the committee was adjourned for two minutes.

A. I understand the question is about what percentage the production — — —

Q. Yes, just approximately what per cent of the oil produced in Texas is consumed by Texas people?

A. It takes about thirteen per cent, just roughly calculating, of the crude produced in Texas to supply Texas with its gasoline.

Q. And lube?

A. That is hard to determine, I would say about the same.

Q. In other words, thirteen per cent of the Texas production is consumed in Texas?

A. Yes, sir, roughly.

Q. Now another question, what is the difference in export and imports of this nation?

A. I believe the exports, I am testifying from memory, but I believe the exports of gasoline are about three times the imports of gasoline, and the gasoline contents of the crude that is imported.

Q. You mean of the imports of the crude oil?

A. I am defining that by the import of gasoline. Both the finished gasoline and the gasoline contents of the crude amounts to about one-third of the exports of the gasoline from the country.

Q. If it is based on the proposition of the one-third of the crude, what would be the difference in your judgment of the exports and imports?

A. I can give you that exact figure.

Q. Well just approximately?

A. Let me give it to you, please. The imports of crude for the first five months of this year were twenty-one million five hundred and thirty-one thousand barrels. The exports of crude were nine million three hundred and five thousand barrels. I do not have here the exports and imports of gasoline, I do not have those figures.

Q. Well, the question I am get-

ting at, I have heard it both ways; if it was all based on raw products, do we import or export more?

A. We do both, but we export more than we import.

Q. Well that is the point I want. How much is this nation producing now, more than it is consuming of the raw products, how much more are we producing than we are consuming?

A. Well, I think very little, just little more than we are consuming, or it may be slightly less because we are drawing some from our storage just now.

Q. Has the consumption of gasoline, and oil in its crude form, and finished products been increasing or decreasing in the last eighteen months in this nation?

A. Unfortunately I have not those stock figures, I do know this however that the gasoline has been reduced somewhat, so several million barrels in the last year, I should say seven or eight million barrels.

Q. Well the point I was trying to get at, in this time of depression, I just wondered if the consumption of oil of various kinds, lube and gasoline and so on, has fallen off in this country?

A. That question I can answer. The gasoline sales in this country in 1930 were approximately what they were in 1929. They started off in the early part of 1930 running considerably above the same period in 1929, but they ended the year with approximately the same consumption we had in 1929. Now this year the total consumption in the United States is running down one or two per cent under the consumption of the same period last year.

Q. Now how about the production for this same period?

A. That has been slightly less because stocks, as I say, the stocks in the last year have been reduced some seven or eight million barrels, I think close to that, from fifty million barrels down to about seven or eight million barrels.

Q. About how much oil is in storage now, Mr. Holmes—do you happen to know?

A. Crude oil?

Q. Just approximately.

A. Yes, I think I can give you the stocks of crude oil (witness examines papers) on hand at the end of the year—that is, at the beginning of this

year—crude oil was 512 million 576 thousand barrels.

Q. Now is the stock increasing under this cheap oil—is storage increasing?

A. I don't know that, because—I have a figure here that might give a little indication. Stocks east of California have gone down a little; they have gone down from 385 million barrels on the first of June last year to 354 million the first of this year.

Q. About how much oil is your company importing?

A. Importing? It is a small amount. I think that it is less than a million barrels. It is Mexican crude brought in for asphalt manufacture.

Q. Is that a million a day?

A. Million a year—somewhere around that.

Q. Now, if we were to pass a proration law or a conservation law, what do you think other states that produce oil—would they follow or have they followed?

A. Well, they have already followed. Their laws apparently in Oklahoma and California give them just a little more control than you have here. They are very glad, I am very sure, from what we know, to have your cooperation and do more if we can.

Q. Now, with most of the products supply and demand seem to govern; it does not do that so much in oil, does it, Mr. Holmes?

A. There is one condition in oil which does not apply to any of the others and that is very vital in this issue. In coal or in wheat or in cotton, if you do not want to produce, you are not compelled to do so, but in oil, regardless of how reluctant you may be to produce oil, if your neighbor wishes to, you are forced to, or lose your property. So there is a condition that warrants some sort of control, because you are forced to dispose of your property regardless of value and regardless of your will, unless you are willing to lose it. So you have that condition that gives reason for consideration of staying the ravages of the rule of supply and demand that you may not have in any such force as you have in oil.

Q. Now, Mr. Holmes, there is one question I don't understand, and that is why with cheap crude the price of lubricating oil remains as it was when crude was high.

A. I can give you two reasons that

satisfy me. The first is that we are making every effort we can to make some money out of any or some branch or other of the business; that is one reason. The second reason is that in just the very last few years and very recently there has been a very marked change in the character of oil required to lubricate these higher speed, high temperature engines, and they have gone to very large viscosities—that is, very much higher body, so that the crude you run is very materially reduced. That has increased the expense of the oil, and then the dewaxing and removal of the carbon and all that is an expense. Those are two reasons. Another effect is that the lower oil has not only reduced the capacity, but it has required additional facilities to produce the requirements of lubricating oils, although with these higher body oils there is less oil consumed. There are those three influences that have affected the conditions that have not brought the price of lubricating oil down as it has gasoline.

Q. Mr. Holmes, do you mean by that that the lubricating oil that goes in my automobile lasts longer on each quart or gallon, and there is greater value to me, than there was three years ago.

A. Yes—yes, sir.

Q. I don't agree with you on that.

A. Well, you had better change your lubricating oil.

Q. I have tried all of them and it is about the same.

Senator Woodward: Probably he had better try The Texas Company lubricating oil.

A. Yes, he ought to do that.

Q. Now, Mr. Holmes, can you tell me when you buy a barrel of oil—say in the East Texas field you buy a barrel of oil—can you take it the way you handle it and bring it on down and tell me what you would finally get from the consumer when you retail that barrel out—in other words, about what a barrel of oil that you buy at thirty or forty cents produces when you have finally retailed it out through your stations — about what does that bring you, that barrel of oil? Now, I am not talking about the net.

A. The gross?

Q. The gross.

A. I would have to do some figuring and look up records. I can not just state the percentage. I know in

a general way what we get for gasoline.

Q. Well, when you get a barrel of fuel oil over there, if you want to get "lube" out of it, how many gallons of lubricating oil could you get out of it if you want to get all the "lube" possible.

A. Well, I would think that—of course, there are only parts of crude that we run—certain crudes that will produce lubricating oil of merchantable quality. But to take the average of the crudes, we get less than two per cent of lubricating oil from the crudes we run. So we get two per cent. Now, on the gasoline with our cracking process we average better than fifty per cent gasoline.

Q. Well, now we will take a barrel of "lube" in East Texas—a barrel of crude oil; how much "lube" can you get out of that barrel at the best?

A. We have never made any from East Texas and I would not call it very satisfactory for lubricating oil.

Q. Well, how about generally in Texas?

A. Possibly five per cent.

Q. You don't mean that five per cent is all that can be gotten out of a barrel in Texas?

A. On the average, yes, sir—merchantable lubricating oil.

Q. Well, there is so much contrast between your statement and those of others—

A. Well, I am afraid I am guessing at it.

Q. Well, about how much would you get out of a barrel of oil when you finish it to get all the money possible out of it at retail prices in those stations.

A. On those grades you speak of in East Texas and North Texas we would get 65 to 68 per cent gasoline; we would possibly get 7 per cent kerosene; say that is 73. We would have a loss of about 5—would be 78. We would have—say, we had 5 per cent. The lubricating oil would be 83. There would be a considerable fuel oil fraction, say 10 per cent; that would be 93. Have I accounted for the loss?

Senator Martin: Yes, sir.

A. Five per cent.

Q. Well, is that all?

A. The way they would run in East Texas in some of the so-called stripper plants, they would probably get 30 per cent of what we call 400 end point gasoline and probably 32 or

33 per cent of Navy specification. They are selling that gasoline as low as a cent and a half a gallon and some fuel oil at fifteen cents a barrel. So their run on that sort of operation would be, say, 30 per cent; that would be twelve and six-tenths. We would be realizing on that around 45 or 46 cents a barrel.

Q. In other words, the "lube" that you buy, all that you get out of it is 46 cents a barrel?

A. No, I was talking about the East Texas stripping operation where they sell gasoline and fuel oil. On the lubricating oil that we sell we would possibly, we might average 15 cents. Now, that I don't remember.

Q. But you get only 2 per cent on forty, it would be eight-one-hundredths of a gallon?

A. Yes. Well, that would be a million 800 thousand barrels a year on our six million of crude.

Q. Well, now Mr. Holmes, this next question, I don't know anything about it. I just see over there that you have what you call a posted price; you put up today, say a posted price on oil in certain fields. What do you mean by that posted price?

A. When we put up a posted price, we post in our field offices and in our purchasing offices the price which we offer to pay for crude; that is what we mean by posting; that is the typewritten posted announcement of our price.

Q. That price is to the world that you are paying that price for crude?

A. That is the price until it is changed, yes.

Q. All right, what determines that price, Mr. Holmes?

A. Well, we determine it. The factors that influence it are competitive conditions, the questions as to whether you are getting as much oil as you want, at the prices you are paying, or more, and to some extent the posting of others, what they are paying for oil.

Q. That is the point I want to get at. If the Humble Company posted a price today of 60 cents, is it the custom of the Texas Company and the others to quote the same price?

A. Generally that has been the results. If conditions are such that they are warranted in paying sixty cents we are in the same line of busi-

ness and those same conditions will in all probability warrant our paying it. It is a competitive condition and we can pay as much as they do; we are not willing to pay any more, ordinarily, but that does have a very material bearing.

Q. The point I am getting at Mr. Holmes, is, in the market in other commodities that custom does not seem to exist.

A. They may not post but I will warrant if a cotton buyer out here after cotton posts a price, or he is buying for 9.8 cents, if you are buying you will not buy it for 8.8 cents or nine cents, so the result is approximately the same.

Q. Well, in cotton, of course a man might be paying this morning one price and in an hour's time a half cent less, or a cent more. How long do those posted prices last?

A. They always last for some period. I would say that very seldom they do not last thirty days, sometimes longer.

Q. In other words, you would post a certain price this morning and then some time today the Humble Company and the other companies would all post the same price and then they stay there? That is not competition, is it?

A. Yes, sir, it is.

Q. How could that be?

A. The fact that the Magnolia did not follow this truck is evidence of competition. They kept their price, they didn't lower their price. They were willing to pay apparently the previous price. They have not changed it.

Q. Then how can you buy any oil at a lower price than the Magnolia, if they are paying this higher price?

A. We wouldn't if we continued at the lower price. The people we are connected to have learned that ordinarily we are willing to pay as much as any one else. We have lost some connections, people who began to believe we just were not going to pay any more and they have gone to others. Now, we are connected up to certain properties from whom we have taken oil year in and year out, and sometimes they go to others, but they depend on us and we are willing to pay what the others pay. If we do not, and we stay under a little while then it is to their own interest that they go to others. That constitutes competition.

Q. Is there any conference or discussion about the price between the different oil companies and buyers or purchasers of oil?

A. No, sir, there is not. If you mean conferences that result in any understanding or agreement or advice from one to the other as to what he is going to do, no, sir.

Q. But they just, when one posts a price, the others just accidentally get the same price up there?

A. That is like the retail price of gasoline. If we raise our price of gasoline today, conditions warranted that increase and there is not so much underselling by Tom, Dick and Harry, that it can not be maintained without a loss of business, the chances are the others are just as anxious as we are to get a better price and they will follow. On the other hand if we cut the price, or someone else cuts it, and we don't follow, people drive into the station that sells at the lowest price and in order to protect our business we are obliged to follow. If we didn't follow quickly both ways the business would flow from one to the other all the time, they would just be going back and forth.

Q. From what source do you get the information that the other man has made a reduction?

A. When they make their posting in order that all their connections may know it, they usually put it in the papers. In New York we get it. If someone in Oklahoma changes the price our manager in Tulsa office will wire both Houston and me in New York that there has been a change in price. They do that immediately. Of course, that is known immediately because when you are connected to a man's property and have a posted price that in effect by custom is a contract to take his oil at that price as long as you run it. If you run his oil and you post a price you are under obligation to pay that price until you change the price, so there is an official notice and I think whether by custom, or some other reason, anyway it is a general practice and an obligation.

Q. Now, on this posted price, Mr. Holmes, when you post that price you mean by that that you will take any man's oil at that price, do you, or do you just have certain customers that you take their oil?

A. When we post a price we will take as much as we can up to our capacity to buy, or our capacity to transport, whatever it may be, yes, sir.

Q. While that is posted do you ever buy lube at a smaller price, crude at a less price?

A. No, sir, we do not. We do not even contract except in East Texas. That is the only exception I know of. Once in a while we have in years gone by when people offered us oil in tanks, that is, maybe a million barrels in tanks, we bought oil then other than at a posted price. We would buy a lot of oil in tanks, or a tank farm entirely, but that has been a matter of negotiations and contract apart from the posted price.

Q. In other words, you would have your posted price and be paying that to some but you might make a contract with some others at a lower price?

A. No, sir, not from producers, no, sir. But if someone, if the Marlin or Continental, some producers who had accumulated a lot of oil in his own tanks wanted to sell his half million or two million barrels of oil, that would be a different transaction entirely. If oil was a dollar and we could buy it for fifty cents, we would buy it, but it doesn't affect the posted price we pay everyone regardless of who he is.

Q. One more question. In your judgment what percent of the oil production in Texas is produced by what is known as the independent operator or producer, as compared to the others, the major companies?

A. Well, I think it is well over half of it.

Q. In other words, your judgment is the independent producers in Texas produce more than fifty per cent of the oil produced in this State?

A. Yes.

Q. How would that percent run in what is known as the East Texas Field?

A. I think it is even larger over there.

Q. Do you consider your company an independent,—what is known as an independent, in that class?

A. I consider we are an independent unit. I have never quite known the distinction between an independent and the others.

Q. I don't either.

A. Except in the old days those who were not in the Standard Oil group were called independents and in my mind that has always been the distinction since. Of course, after the dissolution, those units were all independent, separate units also, but in some people's minds they have generally got in the habit of calling certain people independent and the larger ones majors or large companies.

Q. Your company has no connection with the Standard Oil Company?

A. Absolutely none at all, and there is no connection and no stock ownership and I have made the statement that out of over eighty thousand stockholders today there is no individual or interests who hold as much as two per cent in our company. Over twenty per cent of the stock is held by individual women stockholders.

Q. I will ask you this question and you can answer if you feel like it, and if not, all right. What companies in Texas familiar to everybody would be companies that are aligned with the Standard Oil Company?

A. The companies which were a part of the old Standard Oil group, or grew out of those companies which were units after dissolution, would be the Humble, which I understand the Jersey controls, or has a controlling interest, and the Magnolia which is a subsidiary of the Standard Oil Company out of New York. The Continental, that is more by the amount of facilities and investment and so forth, it is more a Marland Company than a Standard. The Marland took over the Continental, which was a marketing subsidiary in the Rocky Mountain states of the Standard Oil Company of New Jersey. As I remember there are only two companies in Texas which are a part of the old Standard Oil group.

Q. What about the Gulf?

A. Not at all.

Q. Nor the Humble?

A. The Humble is a Jersey subsidiary, or partially owned company of the Standard Oil Company of New Jersey.

Questions by Senator Woodward.

Q. Mr. Holmes, you testified this morning that your earnings, your profit, last year were fifteen million dollars?

A. Yes, sir.

Q. That represents two and a half per cent on the investment?

A. About two and a half per cent.

Q. I will ask you to state, Mr. Holmes, who received,—I don't mean the names, but who received the fifteen million dollar profit? I don't mean the individual.

A. The stockholders through dividends, received pretty close to thirty million dollars.

Q. Now, then, how did your stockholders, who I believe you stated numbered eighty thousand,—

A. (Interrupting) They do now, yes, sir.

Q. How much did they earn on their investment, through stock held in your company, more than the 2½%?

A. The issue of stock is just a little under two hundred and fifty million dollars, that is a little under ten thousand shares, at twenty-five dollars par value, so that the dividend is paid on the par value of the stock, and not on the total money invested in the business.

Q. Then, as a matter of fact, in order to protect your stockholders you really lowered your surplus?

A. We did, and we are doing that again this year; and that is a matter of a good deal of concern to all companies, whether they are warranted, or whether they are wise in going that far in times of distress like this; but it is like our payrolls; we are keeping employees whom we could do without; we are paying rates that we paid before, and a good many of the stockholders are as much in need of whatever we can afford to distribute as the employees are of their wages; so that is a problem today.

Q. I believe you said, Mr. Holmes, that of your stockholders, twenty per cent were women?

A. They hold twenty per cent of the stock. They are more than twenty per cent in number.

Q. And no one member holds more than two per cent of the stock in your company?

A. Yes.

Q. And the reason you refer to the Texas Company as an independent company is because of the fact it is not allied with or connected with any other company?

A. Exactly. There are no influences of any character from any source in our activities, except just

our natural obligation to those whom we come in contact with.

Q. That is to say, you are not dependent upon anybody else for business, or taking orders from any other company, or following anybody else's policy, but you are independent of the entire business world with respect to the oil business and run your own affairs?

A. That is true, yes.

Q. Mr. Holmes, we must deal somewhat in generalities and rumors. It is generally rumored and understood that the Sinclair Oil Company recently sold its reserve stock to the Standard; is that generally understood?

A. Yes; I think that is true.

Q. For which it received approximately eighty million dollars; is that about what is rumored?

A. I think a little less than that; in that neighborhood, but a little less.

Q. Do you know anything about the rumor also that Sinclair is now filling his storage tanks and purchasing additional storage facilities with which to store oil at ten cents per barrel?

A. I have understood that he has been building tanks, but I have no knowledge of the storing. He might, however; he has been one of those whom, I think, have been willing to have a lower price; that has been his attitude.

Q. Isn't it a fact that his attitude in refilling his storage with this cheap oil has a tendency to press down the price of the East Texas product?

A. Well, I doubt if that would have any effect on East Texas. I really think the price depression in East Texas, is due to the producers in East Texas, or some of the producers in East Texas just producing too much oil. I don't believe that, while Mr. Sinclair, having sold his stock of crude oil, is in a different position from the rest of us who have very large stock, I doubt if anything he could do, even if in his interest, could affect that price in East Texas.

Q. If he is undertaking to fill his storage with that cheap oil, wouldn't that have a tendency to do it?

A. I think it would have more of a tendency to do it if he should not be in accord with the efforts we are making. We are trying to bring

about some stability of price in the producing situation, and if one wants to continue the low price, the easiest way to do that is to take issue with us in this proposition. I don't believe that one can do very much over there that has not been done in the field itself to depress the price.

Q. Now, Mr. Holmes, speaking of your views in respect to conservation laws, I draw a distinction between—and I make this, in order to propound a question—I draw a distinction between physical waste and economic waste; do you?

A. Yes, I do.

Q. I will ask you to state if it is your idea that in dealing with economic waste that the principle involved is to prevent waste, such as the producing of more than the reasonable market demand; or, in other words, is that the principal factor that determines economic waste—over-production?

A. I think that is the principal factor in bringing about economic waste, because what I call economic waste, as distinguished from physical waste—physical waste is the actual waste of the product itself, whether it is by evaporation, or leakage, or whether it is by such operation underground as makes it impossible to recover the largest amount of that deposit.—When you produce it in such excessive quantities that it forces one, as I illustrated a few minutes ago, to take his oil out at below cost, you are bringing about an economic waste; you are bringing on the distribution and the disposition of the product at below its cost, and below its value; that is economic waste; it destroys values not only in the oil, but destroys values in a man's wealth and property, which are the same thing.

Q. If I understand you, Mr. Holmes, it is your idea that not only this state, but also all oil producing states, should have laws dealing in a strict manner, not only with physical waste, but economic waste?

A. I think that is very desirable. I think it is very desirable to have laws that give ample authority to properly constituted committees or commissions to exercise discretion even in the matter of economic waste.

Q. Then, according to your policy, or your ideas of policy, a law

which would describe and enable the Commission to prevent physical waste would be a good law; but one which went further and described and enabled the Commission to deal with economic waste would be a better law?

A. Yes; and I would go this far, too. I would give that commission by your enactment authority to prevent, on the other hand, the restriction by producers of their production to a point where the price would be excessive. In other words, I would not let them shut down their wells for the purpose of getting a price way above the cost.

Q. Well, that answer permits me to ask you this question. While it is not material for you to know what my views are, but probably it is necessary to get the matter before you, I don't subscribe to the doctrine of defining waste, among other definitions, as that amount of oil which is produced over and above the current reasonable market demand. Aren't you afraid that if you do define by law as waste oil which is produced over and above the market demand that you might put into the hands, or give the power to the purchasing companies to control the price of the raw product?

A. No; I think the power is in your commission. Now, may I say a word about that. When you produce more than—

Senator Martin: Senator, I could not hear your question or his answer. Will you please speak a little louder.

Q. Senator, I asked this question: That if in the law you define waste, among other definitions, as oil or gas which is produced in quantities in excess of reasonable market demand, would it not likely put into the hands of the purchasing companies power to control the price. Now, will you answer the question, Mr. Holmes?

A. Well, I can't agree with that, because that power is within the Commission. I think the Commission can certainly in cooperation or in contact with the commissions in other states avoid that condition. On the waste, if you produce more than can be consumed, you must do something with it. You must store it; if you store it there is waste, if you store it for any length of time. So, if you bring above the ground more oil than can be consumed, you have an actual physical waste, and unless

it is very temporary, you have to reduce your production below that amount, so that it can be absorbed.

Q. Now, Mr. Holmes, as compared to the consumer and as compared to the purchaser, the manufacturer or refiner, as the case may be, is small in number, that is true, isn't it?

A. Yes, sir.

Q. And as compared to the consumer, and as compared to the producer, the purchaser is smaller in number, that is a purchasing company that is able to handle the large quantities of oil?

A. Yes, sir.

Q. If we had such a statute, defining waste, among other definitions, as a provision of law, in case of the reasonable market demand, would it not be possible for the producing company, not all but some of them, to determine that we have enough oil on hand and we are not in the market for any more, and thereby cause the closing or shutting down of many producing wells, probably temporarily, couldn't that exist.

A. Well it could not exist very long, because the consumption of oil in the United States is upward of two million four hundred thousand barrels a day, that is over a billion barrels a year. Now the oil in stock is only about one-half million, so that they could not very long do without production.

They might accomplish a very desirable thing, which would be some reduction of the above ground stock, but that would be gradual, and say you cut it down to half of what it is now, it would only constitute three months supply of oil for the entire industry, so that danger I think would not be present.

Q. Then you think that if such a contingency might arrive it would be of little consequence, in fact of so little consequence as not to bring about any fear?

A. I do.

Q. Now I will ask you to listen as carefully as you can to these definitions as I read them and I want you to state whether or not you think they fairly define waste, that is physical waste. I will give you a copy of this bill and you can follow it as I read along. You will find it in Section Six.

Senator Purl: What was the question?

Senator Woodward: I have asked

Mr. Holmes to follow me in the definitions of what I call physical waste, then I am going to ask him in his opinion if it fairly describes or defines the waste, that is describes the various things which might bring about physical waste, and if they are broad enough to enable the Commission to act under those definitions. Beginning, Mr. Holmes, with subsection B it is on line 38 of page 2, "Waste incident to or resulting from so drilling, equipping, locating, spacing, operating wells as to reduce or and to reduce the ultimate total recovery of crude petroleum oil or natural gas from any pool or area." Now the next definition is: "Waste incident to or resulting from the unnecessary, inefficient, excessive or improper use of the gas, gas energy or water dried in a well, pool or area." Now the next definition is: "Surface waste including unnecessary or excessive surface losses or destruction of crude petroleum oil or natural gas without beneficial use." Now the next definition is as follows: "Underground waste, including waste incident to or resulting from any act of omission which reduces or tends to reduce the ultimate total recovery of crude petroleum or natural gas from any pool or area." The next definition is section F, which is as follows: "Waste incident to or resulting from closing or permitting crude petroleum oil or natural gas to create or produce unnecessary fire hazard." Now the next definition is as follows: "Waste incident to or resulting from any act or omission in violation of any lawful rule, regulation or order of the Conservation Commission of Texas or of any order or judgment of any court of competent jurisdiction pertaining to the conservation of crude petroleum oil or natural gas, based upon the definition of waste heretofore set out." Do you believe, Mr. Holmes, that those definitions thoroughly cover the acts or omissions which might produce or which do in fact produce physical waste?

A. I think that is a fairly comprehensive and complete specification for the avoidance of waste.

Q. Now those are the definitions of waste as embodied in a bill now pending before the Senate. In another bill which probably has been introduced or may be introduced there is another definition of waste

which I refer to as economic waste, and it has a definition which is as follows: "Waste incident to or resulting from the production of crude oil or natural gas in excess of the reasonable market demand for such commodities for current consumption or use within or outside of the State of Texas, plus such amounts as are necessary for building up or maintaining reasonable reserves." Now am I correct in assuming what you have said that you believe the bill would be a better bill if it contained the definition I have just read?

A. I think it would. I think it gives you a little additional control in this, in the discretion of your commission, that might be desirable at times.

Q. Now then under the definition I have just read and to which I have just referred as to economic waste as distinguished from physical waste, or underground or up ground waste—I am referring now to the question asked you, if under that definition would there likely be a power vested in the purchasing companies to control the price by shutting off the demand for oil? You have already answered that, but that is the reason I am asking it again, do you think there would be any danger or likelihood or a condition whereby the purchasing companies might control the price?

A. No I do not. I wish I could convince you that competition whether it is drilling for oil, buying oil, marketing or whatever it may be, is just as keen and just as severe between the big companies and so far as I have been able to observe between the Standard companies, as it is between the smaller ones or between the Standard companies and ourselves. I don't think it could be possible to get the major companies to agree on any one thing if they had the opportunity and right to do it, and certainly I will say this, as I told the Conservation Committee in Washington when we went there with our plan, they asked me what assurance have we if we approve this plan and the opportunity was given that the price would not be accepted. I said you have the assurance, I think there are enough of us interested in having a steadier and more stable fair condition to prevent that if there was nobody else. This company is marketing in every State in

the United States, and we alone could not stop or stay any excessive condition by just failing to follow. This can be taken as a promise, it does not amount to anything possibly, but we would not be a party to such a thing and I doubt if anyone else would.

Q. Now with this explanation it is only necessary for me to propound the question, if I understand the general business of the Texas Company and other large companies, whether they are majors or independents, they are regarded more as manufacturers than they are producers, is that true?

A. Yes, sir, I think they are termed manufacturers, if you will read the compilations made by the Tax Bureau in Washington, the Treasury Department or Income Tax Returns, they classify the companies as manufacturers who are refiners regardless of the fact that they are producers.

Q. That being true, and the larger companies being in the class of manufacturers, they are necessarily the manufacturers of raw materials?

A. Yes, sir.

Q. Crude oil being a raw material from which they refine gasoline, kerosene and the by-products?

A. Yes, sir.

Q. Isn't it a fact, Mr. Holmes, as a policy throughout the United States the manufacturer usually seeks to buy the raw material at the lowest possible price consistent with business fair dealings, fair dealings in business and honesty in business?

A. Yes, sir, that is a principle of business that I think nearly always applies, or practically always.

Q. Now then if that is true then I would like to have for my own information and the benefit of the company, if it is worth anything, and for the public, to have you explain as to why it is that the oil companies being in the class of manufacturers are making an effort to increase the price of raw material which they produce, what is the business reason for it?

A. One very definite reason I have in mind is this, and it is a repetition of what I have said here and what I said in the House, we have always made more money on the oil for which we paid a good price than the oil for which we paid a low price, and that no doubt is very largely because of

the conditions prevailing which make the crude price high, and at the same time those conditions result in a better general market condition, but apart from that, when we have conditions where the producers get a fair return for their money we have a condition which gives us a better market and better purchasing power for our products. When you produce two and a half million barrels of oil a day and the difference would be two and a half million dollars to the producers a day it means a tremendous amount of purchasing power to the people and their general condition in the country in which we market. That maybe one of the contributing factors to the marketing conditions when the crude prices are high. I think that is pretty generally true in other lines. You take the leather business, which I am not very familiar with, but I have friends who have been in it all of their lives, and they have a similar experience. When hides are lower they usually are making less money than they are when there is a good price for hides. Just why that is the condition, why they can get more for shoes when they are paying more for hides than when they are paying distress prices I don't know, but they say that is the case with them. I don't believe any of the companies are anxious to buy oil at distress prices. Now besides that we are purchasers, the most of us of some oil. We are losing money on production today, frankly. We are in the class of the other purchasers, we produce about one-third of the oil we use east of the Rocky Mountains, and to the extent we do purchase oil we are just as anxious to help ourselves in that as we are the other man. If we were just manufacturers alone, by buying the raw product, I think it is pretty generally true in the history of oil industry when conditions are such that you can buy your raw product for nothing you get nothing for it.

Q. In other words, it is just the same as when cotton is cheap, hard times are on?

A. Yes, sir, and that is quite an item down here. I remember reading, I think it was during the year 1917, the cotton crop of 1917, but the cotton farmers of Texas made more money than all of the oil producers of the United States.

Q. You have explained the reason why refined oil at the filling stations,

as we commonly refer to them has remained approximately the same under local crude prices now as what it was when crude oil prices were a dollar and a quarter?

A. No, you have misunderstood me, the prices have gone down very shortly with the crude decline.

Q. I did not intend to misquote you, I meant you explained the question that was propounded to you as to why crude oil was not down, as what the public generally takes in proportion to the prices of gasoline. I mean to confine this to the average man of the street, the average man in the country has the idea, I am not questioning whether he is right or wrong, that the oil he buys to put in his car is still up to what it was when crude oil was selling at a dollar and a dollar and a quarter a barrel.

A. If he is talking about lubricating oil there is not so much difference.

Q. Now what is the percentage of decline in lubricating oil under present condition and when crude oil was selling at a dollar and a dollar and a quarter a barrel?

A. There has been quite a decline, I don't know the percentage, I think though it may be fifteen or twenty per cent in the motor oils in the volume used, because all high viscosity in motor oil that have been developed, and the better mileage you get in your lubricating oil. The quantities are still less, judging from all experience, I would say from fifteen to twenty per cent less.

Q. That applies to your company?

A. Yes, sir.

Q. Well, that condition probably applies to all the companies doesn't it?

A. Yes.

Q. Now, then, Mr. Holmes, notwithstanding the prevalent opinion that oil is just as high as it was when we were getting a dollar and a quarter for crude oil, there has been an increase in the cost of refining that oil, hasn't there?

A. Lubricating oil, yes.

Q. And the quality of the oil, I believe you say, has been increased?

A. Very much improved.

Q. Now, isn't it a fact, Mr. Holmes, that there is a very small margin of profit in the lubricating oils to the refiner?

A. There is; it is a small profit.

There are lubricating companies that are having as much difficulty as the companies that are manufacturing all the products of petroleum.

Q. What, in so far as the average company—I am not asking you to disclose your own company's business, but with your familiarity with the business of the average larger companies, what relationship by way of percentage of business arises out of the sale of the lubricating oil, just generally speaking—about what percentage of the companies' business comes out of the lubricating end of the business?

A. Well, it is less than two per cent considerably on the average.

Q. And about what percentage comes from the gasoline end of the business. Now, I am speaking just generally of companies; I am not asking you what your company does, but just generally speaking?

A. Forty-five to forty-eight per cent.

Q. And your own company's gasoline, about what percentage would you say it is?

A. I would say about six or seven.

Q. And then the by-products in the way of greases and engine oils and things of that kind would make the balance?

A. Fuel oil, gas oils, asphalt and other products make up the balance. There is quite a considerable loss.

Q. Now, if the companies were confined to the margin of profit, if any, that they are now enjoying, if they do enjoy, from gasoline and these other products I have mentioned, what would inevitably be the result to the companies?

A. They would be worse off than they are now, and that would be terribly distressing.

Q. Well, it would really mean bankruptcy?

A. It approaches that for a good many units.

Q. So that the oil companies who are engaged in the manufacture of gasoline, oils and greases and the by-products must depend upon a profit from some part of their business in order to sustain themselves under present conditions?

A. They must, and I feel they are perfectly justified and under obligations in the protection of their business and the stockholders and the investments in maintaining the

prices as well as they can on any product that they sell in order that they may survive.

Senator Woodward: Mr. Chairman, did you wish to ask me a question?

The Chairman: No. I think we might take about a ten minutes recess.

Senator Woodward: I wish you would.

The Chairman: The committee will stand at ease until 4:20.

Recess.

4:20 p. m.

The Chairman: The Committee will come to order, please. Senator Woodward, you had not completed, had you?

Senator Woodward: No, sir. Just a few more questions and I am through, Mr. Chairman.

Q. Mr. Holmes, do you subscribe to the doctrine that with crude oil bringing what might be regarded as a fair price, I will say a dollar or thereabouts, that it would be material benefit to the citizenship of the State of Texas, especially? Answer that question: Do you subscribe to the doctrine that it would be a benefit to the whole people if crude oil were bringing a fair price?—and I am using the figures of a dollar or a dollar and a quarter as a fair price.

A. I think there are very large, very considerable percentages of people to whom it would be a distinct advantage. In the first place, under these conditions there have been a great many reductions in rentals, and there have been some cancellations of leases; we have canceled out some.

Q. A little louder, Mr. Holmes.

A. We have canceled out leases that are prospective producing properties, and some have produced. There is a very large number of royalty owners whose income at these prices is very small. As I understand it, your State revenues from oil for your State, the amount of that revenue is dependent a good deal on the price of your oil; your schools are supported in some degree by the returns from production on school lands. When the condition of the industry is prosperous the payrolls are larger. There is a very large number of people employed in the oil business, I don't know how many; I think that has been deter-

mined, but it is a very large number. So I say I think a very large percentage of the people in Texas would directly benefit by the better conditions and the result of the better price. On the other hand, there are people, and they are of the same class, consumers of gasoline, that may pay more for their gasoline, but they are getting their gasoline today at a price, as I state, away below the average price that has prevailed for the last eight or nine years, beginning with the year in which we had a depression, 1921. If I were to take an average back through 1920 that average would be considerably higher. So that I don't think it is a hardship at all on the consumers of gasoline to pay a price commensurate with the values, and I think on the other hand it is of distinct advantage to a very large number of the people.

Q. In other words, in summing up your answers again, if I understand you, you proceed upon the theory that there are thousands and hundreds of thousands of people who are directly or indirectly interested in the price of crude oil other than just the stockholders of the companies, and other than the officers and directors of the companies? In other words, do I understand you to mean that with the price of crude oil at a reasonable, fair price, that it will operate as a direct benefit to thousands of people in Texas who are operating or obtaining lease money on land? In other words, it will enable the people who are taking the leases to pay more for the leases than they would pay with crude oil at ten cents a barrel?

A. That is right. And then too, I just stated in answer to another question, that as nearly as I can calculate here, you buy in this State only about thirteen per cent of the products, the refined products of that crude that you produce. You get in this State practically the entire benefit of the better price for your crude, and when you come to pay out for those benefits you only pay out about thirteen per cent of it.

Q. In other words, Mr. Holmes, crude oil that is sold outside the limits of the State which is produced in Texas will yield, when oil is at a fair price, millions of dollars that come back into the State?

A. Exactly.

Q. In fact, about eighty-seven per cent of it?

A. Yes, sir.

Q. That money is distributed throughout the State in the way of further development, or paying for leases, and all of the various things for which that money is used?

A. That is true.

Q. And further summing up your answers, if I interrupt them correctly the increased price of crude will result according to your version of the matter, in a direct benefit to the land owners who are leasing their lands all over Texas, instead of them leasing for twenty-five cents an acre where they formerly leased for a dollar an acre, it would probably go back to a dollar an acre, and be a benefit to the State revenues and the schools, and especially the University, would alone justify the price increase of the crude?

A. I believe that. And then I have this feeling, too. You have in Texas something like one-third or more of the potential production of the United States as it is known today, possibly more, and you have a very large number of producers of oil. There is a very large number of small individual operators, or companies producing oil. Now, there is no way of calculating the effect on the conditions in this State, if those individuals become bankrupt, and I can't see how it can become otherwise if they attempt to produce oil which we know on the average costs upward of a dollar, for any considerable period of time, if conditions are such that they have to continue selling it at away under that price. Now, if you are interested in that particular division or percentage of the operators you can afford to do something on their account; if you are not interested and are willing to see them go by the board, my judgment is all you have to do is to do nothing. You just do nothing and that can happen.

Q. I believe that concludes my examination of the witness.

Questions by Senator Martin.

Q. Mr. Holmes, that Oil States Advisory Committee that has been mentioned here quite a number of times, was selected in the meeting February 28th to March 1st, in Fort Worth, wasn't it?

A. Was elected.

Q. No, sir, selected or appointed?  
A. You mean the so-called Governor's Advisory Committee?

Q. Yes, sir.

A. I don't know about that.

Q. You didn't attend any meeting in Fort Worth about the 28th of February to the 1st of March, 1931?

A. No, sir, I did not.

Q. Have you learned that there was a committee, an advisory committee, selected there?

A. Oh, yes, I know of it. I know the members of the committee and I have met with them. They came to St. Louis to meet with my committee in April.

Q. That was after they had a meeting in March, wasn't it, in Texarkana?

A. Yes, sir, I know of that meeting.

Q. You knew of the meeting in Texarkana?

A. Yes.

Q. Did you say you know the personnel of that committee?

A. Yes, I met all of those gentlemen.

Q. Cicero I. Murray was one, the Chairman?

A. Yes, sir.

Q. From Oklahoma City?

A. Yes, sir.

Q. W. H. Cooley, Barfield, California, was one of them?

A. I don't remember Barfield.

Q. You remember Cooley?

A. Yes, sir.

Q. Mark K. Mitchell, of Independence, Kansas?

A. I don't remember him, no, sir.

Q. How is that?

A. I didn't see him.

Q. Carl M. Cox, of Cheyenne, Wyoming?

A. Yes, sir.

Q. W. Scott Harwood of Jennings, Louisiana?

A. Yes, sir.

Q. T. H. Barton of El Dorado, Arkansas?

A. Yes, sir.

Q. Robert R. Penn, of Dallas, Texas.

A. Yes, sir.

Q. I believe you stated that after they made their report, or got up their report, you met in Houston and studied the report that was made?

A. No, sir, you misunderstood me. You mean this morning?

Q. I understood you to say this

morning, or yesterday, or sometime, that you met there in Houston?

A. No, sir, what I said about meeting in Houston is the meeting in March, 1929, when the committee of the American Petroleum Institute met there to formulate the final plan for a conservation effort. At that time the Railroad Commission of Texas, and the commissions of the other states, were invited to attend and did attend.

Q. Is that committee that I am speaking of,—if their report is not the one you discussed in Houston, of course so far as I am individually concerned I am not interested.

A. No, sir.

Q. You did not meet there at any time since March to read or study any report that was made?

A. No, sir.

Q. You know they did make a report, do you not?

A. Yes, sir. I knew they made a recommendation to the Governors.

Q. You knew that was made in writing, and you have seen a copy of it, haven't you?

A. Is that the report that contained the recommended allowables in each state?

Q. Yes, sir.

A. Yes, sir.

Q. You would know a copy of that report if you saw it, wouldn't you?

A. I think I would.

Q. I will ask you to glance over that. The underlining and parenthesis is by myself. State whether or not that is a copy of the report that was made?

A. What I saw was a newspaper report of their report. I never saw the actual written copy.

Q. What newspaper did you see that in?

A. I will have to correct that. It was in the Oil and Gas Journal.

Q. What is the name, style, or where is the publication of the Oil and Gas Journal?

A. That is published in Oklahoma, and I believe it was one of the last April issues of this year, and I remember in it they recommended the allowables in each state, allowable production, but I have not seen this written document.

Q. Could you glance through that—you read the one in the magazine—glance through that and state whether or not that contains the

same provisions as the other,—the same as the one you read?

A. I would have to read this. No, I do not recognize this. All I remember distinctly in that recommendation was the allowables. I could not identify this document.

Q. You have never seen any report that was made by the Oil States Advisory Committee to any governor printed in any newspaper, have you?

A. No, I think the only place I saw it was in that Oil and Gas Journal.

Q. And you know they have made such report, don't you?

A. I have understood they did. I don't know it actually.

Q. And that Oil and Gas Journal,—what did you say the style of that journal was?

A. It is the Oil and Gas Journal, published in Tulsa.

Q. Is that sold on the magazine counters and stands throughout the State, or do you know?

A. I think it surely would be somewhere in some of these files. It is very generally distributed in the oil business.

Q. Of very general distribution to the oil people and to the public in general, would you say?

A. No. I should say the subscription list is very largely oil people and supply companies and people identified directly with the oil business.

Q. And you are sure you have seen that report in that magazine?

A. Well, that is my impression. I will try and dig up that magazine for you if you want me to.

Q. I would appreciate it if you would do it.

Senator Purl: May I ask a question?

A. May I say this: After we had been in conference in St. Louis, at their request, I was told in St. Louis they were making a recommendation to the Governors, and I am sure they did, of some kind, and afterwards I saw in this Oil & Gas Journal a statement containing their recommendation as to these allowables, and some additional matter.

Q. Well, your answer there calls for another question, then. You understood they were recommending that the Committee itself continue to exist, didn't you?

A. I have understood that, yes.

Q. And that they are to correlate the activities of the various oil conservation bodies of the State, in an advisory capacity, also to make recommendations as to the amount of oil which should be produced within the United States, and as to the prices which should be obtained therefor, so as to assure to all producers a fair and reasonable return on their necessary investment in handling their business in mining for and producing oil? You understood that?

A. Yes, sir.

Q. You also understood that they recommended also to your Conference agreements with the major purchasers of crude oil as to the quantities of production wanted, and the prices to be paid therefor; that was the recommendation you understood they were making, didn't you?

A. Yes, sir; I have understood in a general way, rather definitely, that they made a recommendation. Now, I have not in mind all of their recommendations. The only one that stuck clearly in my mind was that they were to be continued as a committee, and I was impressed with the fact that they recommended an allowable which was not in excess of the one existing some months ago, which struck me as an act of wisdom, that they used that figure before they attempted to determine on any other figure. The rest of it is very vague, and I have no definite recollection of it.

Q. Have you a definite recollection concerning this provision, that each of the major oil producing states—Texas, Oklahoma, Kansas, California, and New Mexico, immediately take steps through their legislatures to create oil and gas conservation commissions, or other proper authorities to be appointed by the Governors of those states for as long a term as possible, for the sole business of enforcing the laws of the various states as to the conservation of oil and gas, adopting and enforcing rules for the reasonable carrying out of such laws by such commissions. Do you remember their making any such recommendation as that?

A. I have a rather indistinct recollection of that character of recommendation.

Senator Martin: That is all.

## Questions by Senator Purl.

Q. Mr. Holmes, Senator Woodward showed you a while ago, and had you read extracts from Senate Bill No. 6, the Woodward Bill. Have you read that bill previous to the time you read those few extracts?

A. I am not sure that I have. I read a typewritten draft of a bill, but I could not identify it.

Q. Did you read the Oil Emergency Bill drawn by Mr. Rhodes Baker of Dallas?

A. I believe the one I read was one that was drafted by some committee that was asked to draft an administration bill, whoever that was. I don't know the parties and am not familiar with the committee.

Q. As an official of the Texas Company, and as one interested in oil conservation, do you advocate the passage of the Woodward Bill?

A. Well, I have not exactly identified the Woodward Bill yet.

Q. That is the bill you had a while ago in your hand—the one we were discussing.

A. Well, I would not like to commit myself definitely to something I have not read carefully.

Q. Have you discussed with your attorneys this bill you now hold in your hands?

A. Not with the definite understanding that it was the Woodward bill.

Q. Have you discussed with your attorneys that bill?

A. No; I have not. I asked for a copy in Houston of the bills that had been drafted.

Q. All right.

A. And I was handed copies and just glanced over them and a lot of these other papers in trying to get some general understanding of the situation.

Q. In the reading of certain sections, or parts of sections, there was no mention of "marketable demand" or "economic waste," was it?

A. It was not read in this section. I have not read it; I just followed the reading of the Senator.

Q. I don't want to ask questions if you are not familiar with the bill.

A. I don't take any exception to any questions you might want to ask.

Q. I don't want to ask questions if you are not familiar with that

bill; if you are not familiar with it, say so.

A. I have not identified these different bills; I understand there have been two or three drafts.

Q. It is generally understood, and was so stated on the floor of the Senate, in this Room, By Governor Sterling and by Senator Woodward in his opening statement, that he was not advocating a bill that had "marketable demand" or "economic waste" in it; did you know that?

A. I understood Governor Sterling — — —

Q. Sir?

A. I understood Governor Sterling said that.

Q. You have not understood it was said by Senator Woodward in his opening statement that he did not advocate that?

A. No; I did not.

Q. Now, if this Legislature should pass a law and leave out any reference to "marketable demand" or "economic waste," in your opinion, would the Legislature serve the purpose for which it is now called?

A. I think it is altogether possible it would not effectively. I think it would fall short of effective control.

Q. Now, then, would you say that that is one of the most important phases of the bill?

A. Personally, I feel it is an important feature of the Act.

Q. Then, if it is included in it, or should — — —

Senator Woodward: Let him finish his answer.

A. If it is left to the discretion of the Commission to make use of that when it is necessary.

Q. Now, then, if the Legislature should add a section to the Woodward Bill positively directing the commission, or inhibiting the commission from taking those factors into consideration, it is your opinion it would not serve the needs?

A. I fear there would be times when you would have inadequate authority vested in your commission.

Q. Yes, sir; and you are not prepared to state whether or not, this bill, if passed in its present form, even though it does not mention "marketable demand," you are not prepared to say it does not, nevertheless, give the commission authority to take into consideration that?

A. No; I am not a lawyer.

Q. All right.

A. And I would not want to pass judgment on that.

Q. Would you, as a layman, and as an official of this large Company—it might not be in order, but I will ask it anyway. "In all trials under this section of this Act the burden of proof shall be upon the party complaining of such rule, regulation or order. In all suits or other legal proceedings under this Act in which the validity of any rule, regulation or order of the Commission may be brought in question, the said rule, regulation or order of the Commission shall, prima facie, be deemed valid until shown to be invalid, and must be obeyed." Now, if the Commission should rule that "marketable demand" and "economic waste" was included in the provisions of this bill, and should issue an order on that, and it is prima facie valid until proven otherwise in the courts, wouldn't that put in this Bill "marketable demand" and "economic waste"; are you prepared to say?

A. Well, I don't know; lawyers are so skillful in getting around anything not perfectly clear that I would not know. My idea of a contract, or a bill, or anything else, is to have it very clear and definite, so that there can be no question.

Q. Now, if it is the purpose of this Legislature to give the Commission the right to take into consideration "marketable demand" and "economic waste", we should boldly and flat-footedly say so; don't you agree to that?

A. That would be my way of doing it; but as I said awhile ago, and I would like to repeat it, I would not make that a necessary application, or a rule for application, except in the discretion of the Commission, where emergencies would permit them to have that additional authority.

Q. All right.

A. I doubt if my advice on those matters would be very good.

Q. Mr. Holmes, in the House Journal of July 23rd is what might be construed as a financial statement of the Texas Company, together with a list of the Texas corporation, and its subsidiary companies. On page 1355 it lists the Texas Pipe Line Company as being incorporated under the laws of the State of Texas. Is that the only company that the Texas Company op-

erates that is incorporated under the State laws of Texas?

A. I believe today it is. The Texas Company now, which is a worldwide activity, is incorporated in Delaware, and as I remember, the Texas Pipe Line Company is the only subsidiary we have in Texas.

Q. Yes, sir.

A. That is domiciled in Texas.

Q. Have you studied that report in this Journal; are you acquainted with it—were you familiar with it prior to its being printed; did you know it was going to be printed in the Journal?

A. No, I did not know it; but I was asked to give a copy of the report in the House, which I did.

Q. The reason I asked is I fail to find here the description in detail of the Pipe Line Company, and I wondered perhaps if you could give them for me?

A. The report of the Texas corporation—the Annual Report is a consolidated report, and includes some thirty-five subsidiaries.

Q. I see. All right, Mr. Holmes, a minute ago you made a brief statement about appearing before a committee in Washington. You were on some sort of committee that appeared there about March or April, 1929, did you not?

A. Yes.

Q. Were you put on a special committee to go there?

A. I was chairman of the general committee of the American Petroleum Institute.

Q. In the Nation's Business, for May, 1929, Mr. R. C. Holmes—you are Mr. R. C. Holmes, President of the Texas Company?

A. Yes, sir.

Q. You recommended a return on April 1st to the 1928 production basis, and the Institute's directors adopted that report on March 27th, in New York; that is true, isn't it, that they did adopt that report?

A. As I stated here this morning we concluded from our studies, and eighty men, all high officers of different oil companies took part in those studies, and were members of those committees,—we concluded from such information as we had, and such forecasts as we could make, that the amount of oil produced in the United States in 1928 would be of sufficient quantity for the year 1929, and 1930,

and, as I remember, 1931. That was incorporated in our report.

Q. Just to sum up the whole report in one sentence, you stated in that report that in 1928, the total extracted was 902,000,000 barrels, and the daily average was 2,250,000 barrels; and the daily average in March, 1929, was 2,645,000 barrels, and that the average daily production could be cut nearly 200,000 barrels without causing any shortage whatever in gasoline; isn't that about the summary of your report?

A. That could be an interpretation of that report, yes.

Q. All right; now, your refineries are located in Texas at what point?

A. Beginning in the north, there is one at Amarillo, San Antonio, El Paso, Dallas, Houston, Port Arthur, and Port Neches, Port Arthur and Port Neches, however, are close to and Port Neches. Port Arthur and

Q. You have a considerable investment in those plants?

A. Yes, sir; a large one.

Q. A large one?

A. Yes, sir.

Q. Is it true or not true that since you installed your plants there has been a great deal of improvement in the processes of refining gasoline—in the machinery and so forth?

A. There has been quite constant improvement in the processing of gasoline, yes.

Q. Isn't it true that some of the smaller plants recently constructed, due to those improvements can make gasoline cheaper than your Company can, and that they do make it cheaper?

A. That may be possible.

Q. And you have not installed this modern machinery in your plants because of the investment it would entail?

A. No; I don't think that would be the reason. We have today all the capacity we can use under the conditions. If we were to put in more, we would put in the most modern equipment.

Q. What per cent of waste, would you say, is in the processing or refining in your plant?

A. Waste?

Q. Yes. I will put it another way. In the modern plant they can recover as much as fifty per cent of the gasoline. Your plants do not recover that much?

A. I think the recovery in our re-

fineries, and we run a good deal of heavy South Texas oil, California oils, and some Mexican, I think we recover close to sixty per cent from all our crude running.

Q. You recover sixty per cent under the machinery you have installed?

A. Yes, sir.

Q. Now, what would you say was the amount of recovery under these modern plants; is it more or less?

A. Well, of course, you are getting into a technical field there where we might go wrong.

Q. That has something to do with waste and conservation, hasn't it?

A. What I mean is this, in our field, I am talking about taking the whole general average of the crude we run. Some of these crudes which we run are susceptible to high run of gasoline, whether it is natural run yield cracking or both; others are not. Some of them have a very high content of asphalt which cannot be converted into gasoline. If you take a high gravity paraffin base of which has a high gasoline content you will get more gasoline than some of the crude we run; some run higher and some run lower. It is possible with some of the later equipment to get a higher result than we did.

Q. If your plant is operated with machinery and equipment whereby they are not getting as much gasoline out of the crude as they do with modern machinery in a modern plant, then your company is guilty, and I use that word in the proper sense, of not properly conserving some of our natural resources?

A. Well, I think we are guilty of this in strict observance of conservation, if you carry it to the extreme, we might be required to produce the very maximum yield in order to confine the crude consumption to a minimum.

Q. Would you be willing for this Legislature to give the commission in this bill the right to require modern methods of recovering this gasoline and require the plant to install that sort of machinery if necessary to cut down the overhead cost?

A. I would not oppose it but at the same time I would not advocate any unnecessary hardships on anyone; but so far as we are concerned we are so strong for conservation that if that would aid we would not oppose it, we would say all right.

Q. Are you acquainted with Mr. Mark L. Reque, general director of the United States Fuel Administration?

A. Yes, sir.

Q. Would you consider what he had to say about the oil business as an authority?

A. As an authority?

Q. As an authority?

A. Yes, he is well informed on the question is he not? Yes, I think he is.

Q. A Legislator could read his article with assurance, couldn't he?

A. I think so.

Q. He states that he sat in a meeting in which it was seriously considered desirable to burn up five hundred thousand barrels of oil in order to raise the price, did you ever hear of any such meeting?

A. I never did.

Q. He further states that oil has declined around Spindle Top from a nickle a barrel and that at the same time the Southern Pacific imported it from New Mexico, did you ever know of that?

A. Will you repeat that?

Q. That oil around Spindle Top in the early history of the field went begging at five cents a barrel and that the Southern Pacific was importing oil into Texas at that time to burn. Did you ever know of Spindle Top ever selling oil at a nickle a barrel?

A. I know of contracts that were made for that price and less but I don't remember that any oil was being imported from Mexico at the same time.

The Chair: Senator Purl, will you pardon the interruption, the Senate recesses until five o'clock and it is now five o'clock, and the Senate can take whatever action you think is proper.

Senator Woodruff: I move that the Senate stand adjourned until tomorrow morning at nine-thirty.

The Chairman: Motion has been made that the Senate stand adjourned until nine-thirty tomorrow morning, all in favor of that motion let it be known by saying "aye", opposed no, the "ayes" have it and Senate is adjourned until tomorrow morning at nine o'clock.

Q. (Questions by Senator Polard.) Did you state that your company has something like fifty million barrels of oil in storage?

A. I don't think I stated.

Q. Could you tell us in round numbers about how much they have in storage?

A. Yes, sir, it is, I think it is about thirty-five million; I think we have about thirty-five million barrels of crude today.

Q. Today you have about thirty-five million?

A. Yes, sir.

Q. If you do have thirty-five million barrels on hand in storage you carry it at the price it cost you?

A. No, sir, we carry it at the market price.

Q. Regardless of what it cost you?

A. Yes, sir.

Q. Now then, if you should have, I don't say you do, but if you should have thirty-five million barrels of oil in storage at ten cents a barrel, and it should go up to a dollar and a quarter a barrel you would have made more than thirty-five million dollars?

A. No.

Q. Why wouldn't it be to your interest for the price to be raised?

A. It would be carried stock on our inventories and inventoried at cost. It will be inventoried at cost or at the market price, whichever is lower. We suffered a tremendous inventory loss, there is no question about that.

Q. This oil you have in storage, you either carry it at cost or market price?

A. Yes, sir.

Q. Who decides whether it is carried at the market or cost?

A. That is a policy which we follow, that is applied in the comptroller's office.

Q. If you carry it at cost and then the price should increase from ten cents to a dollar a barrel would your books show the market price?

A. That inventory would vary with the market until it reached the cost of that oil and then it would stand at that point on our books regardless of where the market went.

Q. Did you state that your company made fifteen million dollars last year?

A. Yes, sir.

Q. Did you reduce your inventory to market price and still make fifteen million dollars last year?

A. Yes, sir.

Q. Is that inflated figures or facts? You reduced the price of

your oil to the market price and still made fifteen million dollars?

A. I have told you exactly what we did and that is a fact.

Q. The figures will reflect the fact?

A. You don't need to question them.

Q. I am not questioning them, I am questioning you if you don't mind.

A. What I tell you are facts, you don't need to ask the second time.

Q. You don't object if I do not understand if I ask you again?

A. No, if you do not understand.

Q. If I apologize and smile are you still going to be mad?

A. I accept it.

Q. I am asking you whether or not, and trying to get in my head, whether or not your company would put the price of oil at its market price and still make fifteen million dollars, and in view of the fact you said you would show it at either market price or at cost, I was trying to understand which one it was?

A. I am perfectly willing to explain. Our policy is to carry our inventories at the time we inventory, at the end of the year, at cost or the market at the time, whichever may be lower. Now if the cost were lower, say seventy-five cents, and the market was a dollar and a half it would be at cost, we will say at a dollar or seventy-five cents, whatever it maybe. Now whenever the market goes below we carry it down to the market so that we have always a conservative value and take the loss at the time. Now if the price of oil should stay on where it is today we have taken our loss and we have no fictitious upset at all on our inventory, we do not have to take that loss a year from now or some other time, we have already taken it. That is a conservative and safe policy and it is a policy that we do not change from time to time, it is being followed from year to year.

Q. I am speaking at long distance, and I have to speak loud.

A. That's all right.

Q. In answer to Senator Woodward you used the expression "twist of the wrist?"

A. Yes, sir.

Q. Well, if that is true, by a twist of the wrist you can either make or lose money. If it is caused

by twisting the wrist it would change figures, would it not?

A. Well, we have cut the twist of the wrist—

Q. Yes, sir.

A. —and let everybody take this oil on hand that is worth twenty-five per cent or fifteen per cent of what it cost them. I would like to help twist the wrist.

Q. Well, now, just one other line of inquiry for a minute, sir—a different line. In response to question (question interrupted.)

A. Although that is not my primary purpose in this activity.

Q. Yes, sir.

A. I am sure you know that.

Q. In response to a question by Senator Woodward I believe he stated he might talk to you about some rumors and rumors of rumors and mentioned Mr. Sinclair with some idea in mind about having nothing on which to base it except rumor he was talking about in the Van field. Does your company have holdings?

A. We do, yes, sir.

Q. Do some of the other major companies have holdings?

A. Yes.

Q. In order to get at it, isn't it a fact—I think it is agreed—that the Humble and the Sun and the Texas and the Pure—what other companies are there?

A. Shell.

Q. And the Shell. Now, in response to questions by Senator Woodward I understood you to say that when you were before the Commission in Washington or before some agency they asked you what assurance could be given that they would not raise prices and certain other things, and you said the major companies and Standard companies and other companies were in keen competition, or something to that effect. Did you say that?

A. You misunderstood me rather badly. I said this: Secretary Adams asked me this: "What assurance have we, Mr. Holmes, that this activity might not result in excessive prices or that any of the benefits of these economics and so forth that you hope to work out would accrue to the consumer?"

Q. Yes, sir.

A. I said, "You have this assurance: that there are enough of us vitally interested in this matter

and some stability of this situation to see that there are no excessive conditions, and if there were none other, this company alone could do it."

Q. Yes, sir. Now, it has been stated here by other witnesses that the Van oil field is more nearly under perfect proration or under control, compared with other fields—maybe not ideal?

A. Yes, sir.

Q. Now, is that field now being operated by one or more companies?

A. It is being operated by the Pure Oil Company.

Q. It is being operated by the Pure Oil Company. Has there been any sort of agreement with these other people who are interested in it that that would be done?

A. Yes, sir.

Q. Was it a written agreement?

A. I believe it was.

Q. Can you tell us who signed the agreement for the Texas Company?

A. No, I could not, and I am not sure that it was a written agreement, but I think it was.

Q. Do you know whether or not you have seen it or read it?

A. No, I have not read it, but the terms of the agreement and understanding were discussed with me by our producing people at the time.

Q. Now, rumors around that that agreement might be in violation of the antitrust law—do you know whether or not that has been discussed?

A. No, it was not with me, but I am assuming that our counsel will make agreements that are not in violation of the antitrust laws.

Q. So far as you are concerned as president of the Texas Company, would you have any objection to that agreement being printed in our record?

A. Not so far as I am concerned.

Q. Where could we get that?

A. I think our legal department, if we have a written contract would make it available.

Q. Will you have it sent to us, or would you object to it?

Senator Woodward: Senator Purl, that is probably on file with the Railroad Commission.

Q. Well, if not on file there, would you have any objection to

mailing me personally a copy of that agreement?

A. No, sir.

Q. I apologize if my questions have seemed out of the way.

A. I think probably I should apologize.

Q. Well, so far as I am concerned, it didn't happen.

Senator Woodward: If you gentlemen had arms long enough you could shake hands. (Laughter.)

Senator Woodruff: Mr. Chairman.

The Chairman: Senator Woodruff.

Questions by Senator Woodruff.

Q. Mr. Holmes, I have a few thoughts that I would like to get cleared up, if I might. Do you know when the—first, what is the name of that committee composed of three members of the industry, three members of the American Bar Association and three members of the Federal Government—do you know of such a committee?

A. There was such a committee; I don't remember the name of it, but as you say, I think there were three members of the petroleum industry, three of the American Bar Association, and some one or more, I am not sure whether it was Government attorneys or not, but there was a committee. It seems to me that committee was to study the anti-trust laws, wasn't it?

Q. I was just about to ask you if you knew what the purpose of the creation of that committee was—what they were created for.

A. I am not sure whether that was it or whether it was a study of the anti-trust laws in connection with these conservation efforts; I don't remember distinctly.

Q. Do you recall whether or not that committee of nine in 1928 made a recommendation to the A. C. I. and to the industry and the Government that a Federal oil conservation act be passed?

A. I remember that committee and the work they did, but I am not sure that I remember that recommendation was made. I think, however, those reports could be made available to you on short notice and your questions then could be answered very definitely.

Q. My information is that the committee made such a report. Did that report, if it was made by the

committee, have your endorsement as President of the Texas Company?

A. No, I do not remember that I endorsed it. I am sure I did not give any written or verbal endorsement.

Q. Who is Mr. C. M. Ames?

A. Judge C. B. Ames is now Vice President, in charge of our legal department.

Q. Was Judge Ames connected with the Texas Company in 1928?

A. He was out of our service two years. I am not sure when he came back. I think he was back in '28, in the spring of '28.

Q. Do you have any recollection at this time of an article that he wrote which was printed in the Texaco Star at some time during 1928 relative to the question of oil conservation as a problem?

A. Yes, I remember such an article.

Q. Do you recall that in that article Mr. Ames said there were two ways to approach this problem of over-production? By way of refreshing your memory I will ask you if it isn't a fact that Judge Ames in that article said that legislation was one way, and agreements among the companies, the producers was another way?

A. Yes, sir, I think he did.

Q. At that time did you endorse government regulation or company agreements as a means of reducing over-production?

A. My own attitude has been that we need additional legislation, but I have been willing to try cooperation to whatever extent it could be done within the law. That was because of the fact that some in the industry have been averse to any attempt to get legislation, I think very largely on the fear of what the legislation might ultimately be. That, I think, is natural in the minds of anyone seeking legislation, there is always a doubt as to the character of what may be enacted, but Judge Ames and I have been in accord all of the time in that we would like to see the control strengthened through better laws, and failing in that we have been willing and anxious to cooperate to whatever extent we could to have a better condition.

Q. I am reading to you from that article: "Believing as I do that cooperation is the answer, and not legislation, I am opposed to the recom-

mendation of the committee of nine that recommends that there be legislative regulation of production as a remedy for over-production." Judge Ames said that he is opposed to legislative action, but favors cooperation.

A. I don't remember that committee of nine, whether that was Federal legislation,—I don't think Judge Ames has been advocating Federal control. I feel that the control should be within the states with the cooperation of the Federal Government.

Q. Has your company as a policy attempted to cooperate as a remedy for the situation since 1928?

A. Yes, we have.

Q. You have tried to cooperate with other producers. What is the nature of your efforts along that line, if you please?

A. Well, it has been in an effort to get proration in these fields, get the production down to the market requirements as nearly as possible, and the effect of that you have seen through the activities of your own Railroad Commission and the Commissions of these other states.

Q. By proration, do you mean voluntary proration, or involuntary proration?

A. Well, it has been both. We have been dependent for results very largely on voluntary efforts, but we have needed involuntary proration or enforced proration in some instances to make it really effective.

Q. The question of over-production, the problem of over-production is one covering several states, isn't it?

A. Yes, it involved quite a number of states.

Q. What would be the result if all of the oil producing states prorated and cooperated, except Texas?

A. You have before you the result now, I think.

Q. All right. You testified this morning, Mr. Holmes, that your company declined to purchase oil in the East Texas area that was produced in violation of proration orders. Is that true, Mr. Holmes?

A. That is true.

Q. I will ask you whether or not your company had in mind in doing that forcing the recalcitrants into line?

A. We had in mind this, that we are observing the orders, obeying the

Railroad Commission's orders, and we are not willing to contribute to the violation of that order by others, and that is all it means.

Q. Let me ask you this question, if all the other oil producing states in the Nation enacted state laws that are satisfactory to the industry from a conservation standpoint, except Texas, and this Legislature fails and refuses to enact such legislation, or any legislation other than is now on the statute books of the State of Texas, do you think that your company and other companies might pursue the same policy with reference to Texas that you have with reference to East Texas because of their failure to cooperate in the general program.

A. I believe this would be the ultimate outcome. I think if others fail and refuse to comply with the orders of their properly constituted commissions, that we will all be relieved of that obligation. I do not think we should be forced to continue to be in that embarrassing situation. I think the ultimate result would be necessarily that the Railroad Commission here would say that if we can't enforce this order against all, in all fairness to the rest we must withdraw it. When that is done, if that is done, then these other states will, I believe do the same thing. They will see that it is impossible for them to carry on under enforced conservation activity and restrictions with Texas without restrictions, so I feel, and I think it is almost certain that that will be the ultimate result. I do not think we would be forced ourselves into any activity generally such as the one in East Texas.

Q. Mr. Holmes, about how long have you anticipated trouble here due to overproduction in the industry?

A. We have had periods when I have anticipated it since 1923 when we had the very high excessive production in California. It became a certainty in my judgment in 1928.

Q. For how long a time have you been an advocate of legislative intervention in order to establish the industry in that connection?

A. Since sometime in 1928.

Q. Why haven't you, Mr. Holmes, in view of the several states producing oil and the diversity of opinion and conditions from state to state that is producing oil, why haven't you advocated Federal legislation

along this line so as to make the legislation uniformly applicable to all areas alike?

A. I am a little too much of a State's Rights man to resort to Federal control if it can be avoided. I am perfectly willing and glad to see Federal cooperation, but I am not willing to advocate Federal control where the states can control properly their own affairs.

Q. If the Federal Government can control more efficiently and accomplish your purpose with greater efficiency than the several states can do it separately and independently each of the other do you still favor state legislation?

A. Yes, I favor the state because even though it might not be quite as effective, I believe it can be as effective if there is a disposition, as I think it can be, to cooperate to whatever extent is desirable with other states and the Federal Government.

Q. I will ask you if this article by Judge Ames has anything to do with your opinion on that question? Let me read to you a few lines: "Two fundamental principles should always be borne in mind, the first one is the essential American idea of fee simple title. The owner of the land does not require a concession from the government in order to drill for oil and gas. The land belongs to him and he has the right to drill or not as he pleases, and having drilled has the right to reduce the oil to possession. This is a vested constitutional right."

A. He is not stating his opinion; he is stating the law, and I am not versed in the law but I am perfectly willing to accept his judgment that that is the law. I have reached a stage where I think it is not a good law as it is applied, in its application to petroleum production because it enables me possibly to take oil from a lease under these conditions today when you can't afford to do it. In other words, you are obliged, if you are a neighbor of mine, a neighboring producer and if I want to take my oil out at ten cents you can do nothing other than take yours out at ten cents unless you want me to take a certain part of it. So that while I think Judge Ames' article merely states the law—

Q. If it is the law he predicates it upon the constitution, and certainly you would not advocate any—

thing being done directly or indirectly to infringe upon any individual's constitutional rights, would you?

A. That same law has been applied to water. Some few years ago a case was tried in New Jersey,—I don't remember exactly the case but I have heard of it,—I think a public service corporation went over to some place in New Jersey and drilled wells for water and was draining the wells of the farmers and residents in that section. They were restrained from taking an excessive amount of water from that land, or an amount that would seriously affect the adjoining property. I see no reason why we might not come to a time,—I am not saying I advocate it,—but I see no reason why in all fairness to the owners of the subsoil we might not come to a time when we could properly put a different construction on what a man's rights may be to the migrating products of the subsoil.

Q. Now, Judge Ames calls our attention to one of the principles that he says is fundamental. That is, that production is not interstate commerce from which it follows that Congress has no power to regulate it?

A. I assume by that the production is within the State, and the production of oil not being interstate commerce, the Federal Government has no authority to regulate it.

Q. I ask you if it is not a fact that your Company and the other big producers, in their effort to arrive at a solution of this over-production problem, have abandoned Federal legislation as impossible, as indicated here, and are relying now solely upon the several State Legislatures to meet the needs, or the purported needs, for such legislation?

A. Well, I dislike to answer these questions and be misunderstood. I do not know that it has been abandoned. I don't know that a serious effort has ever been made in the industry for Federal legislation. Studies have been made, but I doubt if concerted action has ever been made to secure Federal legislation. I think, in general, the majority have reached the conclusion that such regulation as could be had in the state was the better course to follow.

Q. Now, Mr. Holmes, you are more familiar with the refining and

distributing processes than you are in the producing end of the business, are you not?

A. Well, I was longer in that branch of the business. I was directly connected with that until about 1916 or 1917.

Q. Is it a fact that since 1925, shall we say, great economies in refining processes, by reason of patented devices, have been developed in the refining industry, effectuating very considerable economies in the processing of crude oil, and getting it into the finished product?

A. The equipment has been—the result of the equipment has been to increase the yields of gasoline. It has not decreased the cost per barrel of refining. It has, on the other hand, increased it to a considerable extent, the total cost per barrel of refining; but it has very materially increased the yield of gasoline.

Q. Has it by that token enhanced the value of a barrel of crude oil after it is refined?

A. Well, it would when you have reasonable prices from the producers of the crude. Today, in spite of all those improvements, the value of the products of petroleum are way below what they were in 1925.

Q. But relatively speaking, is a barrel of crude oil refined today under modern processes, more marketable, and of greater market value than the same barrel of oil would be refined and processed under the old processes of eight or ten years ago?

A. Yes; it meets better the present day market refinements. The finer cracking, better distillation, and so forth, give a product better suited for motor consumption, and the lubricating oils are better.

Q. Do you know anything about the distributing policies of the Texas Company?

A. Yes, sir.

Q. Do you know whether or not it is the policy of the Texas Company where it has a Company operated filling station in town "A", and across the street has a lease operated filling station in the same town, sells its gasoline to the lease owned operator at a fixed price according to a contract, and in the same contract requires that lease operator to sell the gasoline at a price named by your Company?

A. Yes; if that is a lease sta-

tion, we do; he is our operator; we lease the station, and he is required in that instance to sell, as I remember it, at our price.

Q. Now, we will take another operator down the street who owns his own station and his own equipment and purchases your product and pays you the agreed price in cash; is it the policy of your company then, under those circumstances, to require him to sell at a price named by you?

A. No; I understand there that there is no contract to that effect; he buys that gasoline, and it is his gasoline.

Q. Is it the policy of your company so to sell and distribute gasoline through its own stations as to make it impossible for him to make a living profit on his operations if he sells at less than the price you sell for, or a cent or so above what you get for yours?

A. No; that is not a matter of policy, nor a matter of practice. If we sell gasoline to a man, we hope that he can make something out of it, and we don't do anything to injure him in the way of competition.

Q. Are you sellers of crude or of refined products principally and primarily?

A. Primarily, refined products.

Q. What per cent of your purchases of crude do you sell unrefined?

A. That varies, but it might be as much as seven or eight per cent, sometimes might be.

Q. Seven or eight?

A. Might be as high as that.

Q. In other words, it is comparatively negligible?

A. It is a rather small part.

Q. What objection have you then, if the Texas Company can buy crude oil at ten cents a barrel in East Texas, for the purpose of running its refinery and supplying its retail market with refined products, what immediate concern from the stockholders' standpoint is it of the Texas Company that it can buy oil at ten cents a barrel?

A. Possibly unfortunately for the Texas Company, I feel some obligation to carry on this effort we are making. I feel that those producers, large and small, who have restricted their production, are entitled to consideration, and I am not willing, even for the benefit of

the Texas Company, to do anything in East Texas that will further embarrass them, financially or otherwise. That is my reason.

Q. Well, are you willing for a producer over there, who has his own oil, his own lease, and who has spent his own money to get oil out of the ground, and comes to you and begs you to take his oil at fifteen or twenty cents a barrel, have you any concern as to whether he is making money, or not making money out of the transaction?

A. None at all; not if he is producing out of proration. If he is producing out of proration, I have no concern about his financial standing.

Q. If he is producing under proration, do you have a concern about his financial standing?

A. Yes, sir. I am sorry he is forced to sell his oil at any set price, and I am also sorry that any of the companies competing are obliged to compete in the market with oils sold at those prices from this State or other states.

Q. Wouldn't it be sounder business judgment and practice on the part of the Texas Company—I am just taking the Texas Company as typical, and what I say applies to the Gulf and every other company similarly situated—with reference to the number of filling stations placed about your trade territory for the purpose of distributing your refined products; for instance here in Austin, you have any idea how many Texaco filling stations are located in Austin?

A. No; but I will venture there are more—a great many more than are necessary to serve the public; I think there is a great waste in the duplication of filling stations. I think that everyone could be well served with a much lesser number, but you would find, if we attempted, as we should in the interest of the company, to reduce that down to the minimum and control all of our own stations, you would find a tremendous amount of opposition. There is a waste in the distribution of all merchandise. If it is not corrected sooner or later that will make it impossible for us to compete with other nations. Take in Russia; in the city of Moscow they would have about twenty filling stations, with as many automobiles as we have; we have two to five thousand; and

when the time comes when we shall have to compete with Russian goods, the cost of distribution of our merchandise will put us at a very serious disadvantage. That is why I remarked in the House yesterday when I was asked what are some of the causes of our difficulty, I said one is the effect of anti-trust laws. I have always been in favor of the anti-trust laws as laws to prevent any unfair combination and control of business, but the literal effect, and the literal interpretation of the anti-trust laws makes it impossible to correct a lot of these wasteful, unnecessary practices, and we deplore them fully as much as you possibly can.

Q. What have you done about it?

A. Well, I have simply talked about it, like all of us do. I have tried to get up a little enthusiasm and some study, and I think some is being carried on to see if some modification or a more liberal interpretation could not be had.

Q. You have said it cost a dollar a barrel to produce oil?

A. Now then when I give these figures I would like to explain this; in the study by the Federal Senate, as I remember, in studying this tariff, the oil tariff question they sent out a questionnaire; they sent them to us and I suppose the other companies also, asking for our production cost of oil. Those were furnished and it is through these studies and complications that I got these costs, and so I assume the cost of ourselves is not far from the others, and ours was just above a dollar a barrel.

Q. Granting then that the cost of production of a dollar a barrel, granting that the Legislature co-operates, and by the combined efforts of us all, the market price of crude oil is put back at a dollar or better per barrel, what would gasoline have to retail for in order to make up the difference between ten or twenty cents and a dollar or a dollar and twenty cents a barrel?

A. Of course, we are losing money now, but if we run a billion barrels of oil through our refinery in a year and we pay seven hundred and fifty million dollars more for crude and produce from that crude four hundred and fifty million barrels of gasoline, if we could get two

cents more for that gasoline, if we could get three cents more for that gasoline we would not more than make up for the cost of the crude. A little additional would make up the loss we are making today, so our five cents might possibly be able to put the industry at least in a passable condition.

Q. About one more thought and I am through. Did you favor a tariff on the importation of foreign crude?

A. I have not because I felt that a tariff was not the solution of this problem. I have been reluctant to see this country resort to some expedient which was not a cure and that particular expedient could only result, in my judgment, in the erection of additional refining facilities in other countries and the supplying of the foreign, which would reduce our export and in the end have no beneficial effect on our own condition here. Now if we get our affairs in order here the import of foreign production by interests who have interest here are not so conducted as to make a practical contribution to the effort, then I would favor whatever expedient would aid in the solution.

Q. Well what position would the producers in Texas be placed in if we restrict their potential production, we will say to fifty per cent in order to stimulate the market price of crude, and say the Texas Company and the Gulf Company increase their rate of importation on foreign crude into a market that we have artificially stimulated in Texas?

A. Well of course you would look on that as a possibility, I don't look on it as a probability at all because those who are interested in these South American fields are also interested in the industry in this country and I would assume that they would attempt to do their part there. If they did not then as I say, if you have been able to handle your production here and the tariff was an aid, then I would be for the tariff.

Q. Do you know how much it costs to produce a barrel of crude oil in Venezuela?

A. No, I do not, I know it is considerably under the cost here.

Q. Do you know whether or not that it is a fact that it is possible and that it is being done that crude oil produced in Venezuela, handled and unloaded in Port Arthur, Texas,

at around twenty-two cents a barrel?

A. No, but I know it is not possible.

Q. It is not possible?

A. No, it is not possible.

Q. Well what figure do you think would be possible?

A. Well I know you can't take the oil, counting your investment, the drilling cost, you cannot barge that oil out of that lake and take it into terminal tankage, and then reload it and transport it to New York for twenty-two cents, the cost must necessarily be in excess of that.

Q. Mr. Holmes, you were forced very reluctantly into advocating Legislative interference into the oil industry, were you not?

A. I was hopeful that cooperative effort with the laws that we had, we have some kind of conservation laws, and I was hopeful in the beginning that those were sufficient, with cooperation within the industry to effect a better condition and bring out a reasonable conservation and more stable condition, but we were fooled in that.

Q. And your purpose in that was to make money for your company?

A. It was to make money, and as I think I stated in this House, to better protect our tremendous investment in the future. We are building necessarily and keeping up with the increasing consumption, we are spending millions every year, adding to this some six hundred odd million dollar investment, and I am concerned with what that will be worth fifteen or twenty years from now.

Q. That means to make money?

A. Yes, and I as a citizen am also concerned in the dissipation of these resources unnecessarily.

Q. This morning you testified that what it was an important element to be considered that oil reserves were necessary to the National defense?

A. Yes, sir. One of the very distinct advantages in definite and firm control is the ability to go and find the oil and define the places and know what we have. We can know better what we have for the future if we are not under the obligation of taking it out of the ground the minute we locate it. I think that is one of the very distinct advantages that will come from proper and definite control, that is we can find and define what we have. Not be uncertain about it.

Q. Then as a necessary policy do you think if you pursued your thought there to its ultimate analogy, do you think that in the end it would be better to lock up the American reserves where they are in place today and take this foreign oil that can be dumped in here on us, that can be produced cheaper than we can produce it at home, and save our oil until such time as we can produce it?

A. I think that if you can ignore the immediate welfare of those who have their money invested, and it was purely a question of the nation's interests that would be a decidedly good policy.

Senator Woodruff: That is all.

Questions by Senator Berkeley.

Q. Mr. Holmes, in the production, refining and marketing of oil and its by-products in Texas, what per cent is handled by these so-called major companies, about what percentage do the so-called independent groups refine?

A. Would you call a company like Skelley, Phillips, and Mid-continent—

Q. I think it is generally understood that probably there are some six or seven companies that are regarded as the major companies?

A. Yes, sir. I should think those companies, that they manufacture possibly as much as sixty per cent. Some of those other companies do not sell directly through their own facilities. They refine a good deal of oil, that, as I said this morning, is sold through distributors or facilities they do not own. It might be a little above that, but there are some three hundred refining companies, maybe a little less, but I should say that the five or six major companies handle sixty per cent or a little more of the manufacturing.

Q. How has that ratio changed within the last five years?

A. I don't believe it has changed very much. It has changed a good deal in the last twenty-five years. We today, this company alone, today produces and refines and markets more than the entire industry did when we started. There has not been much change I think in the last five years in the percentage.

Q. How are these independent companies in general,—undoubtedly there is a large number that have retired from the picture in the last

five years. Under what circumstances did they retire, were they taken over by the larger companies, or how did they pass out?

A. Well there as not been so many so far as I know that have passed out in five or six years, there have been very few consolidations. We acquired the California Petroleum Company in 1927, I believe, acquired control of it. We recently purchased the control of a smaller unit, a refining unit, the Indian Refining Company in Illinois. And there is the consolidation of the Marland Company and the Continental, The Tidewater Oil Company and the Associated Oil Company of California. There have not been many consolidations and there has not been so many eliminations. I understand just recently within the last few months there have been a number of smaller refineries shut down but I do not understand that they are out of business, they have simply suspended operations so far as I know.

Q. Earlier in the day I believe you testified that in 1930 that your company earned two and a half per cent on their invested capital, is that correct?

A. Approximately that, yes.

Q. You also stated that at one time you were a small independent company, I don't remember what year you began operations, but your company has had a very meteoric career, it has grown very rapidly. Now two and a half per cent on your invested capital for the year 1930, I don't know how that compares with any of the years previous to that time, but that is a very small return. Your company has grown very, very rapidly. Now how has it grown up and gotten new capital, or is it a general extension of your business or has it been by the acquiring of a great number of these so-called small independents?

A. With the exception of these two acquisitions I have told you of, it has been entirely by growth, by development of our own facilities here and abroad. There have been no consolidations, except those two acquisitions.

Q. Well, Mr. Holmes, was that earned capital, additional capital investment, or was it new capital investment—your company is capitalized now for six hundred million dollars?

A. No, for two hundred and fifty million, but the capital invested in the properties is about six hundred million dollars. The capitalization of the company is just a little under ten million shares at twenty-five dollars par. Of course, a good deal of that, some of it has been in stock dividends, but the stockholders have paid into this company since the beginning about two hundred and fifty million dollars in money.

Q. Now, Mr. Holmes, how much have they put in there in earned dividends—declarations of dividends?

A. Then the balance has come from earnings or a part of that, you know, of six hundred million dollars is reserve; surplus and reserve show a depreciation, etc. That accounts for part of the accumulation, but actual money put in by the stockholders has been about two hundred and fifty millions. During that time up to the end of the year the dividends have amounted to, I think, something like two hundred and forty million dollars.

Q. Mr. Holmes, do you subscribe to the general trend in this country at this time in the matter of wholesale mergers, consolidations, and big business? You know there is a tendency, Mr. Holmes—(question interrupted).

A. I understand that is the tendency. I doubt that it is the solution of our difficulty. I think that there are some places and different industries where certain consolidations may result in economics and advantages, but that is not going to be the solution, I am sure, of any of the difficulties we are in now. My own opinion now is that we need the opportunity and freedom to correct some of the evils and difficulties that are absolutely prohibited now that could within all reasonable propriety be corrected. Just as I say, the literal interpretation of the anti trust law which makes it impossible to avoid unfair practices, things that are unfair and unethical, you can not by agreement avoid doing. Now, we have been criticised on this code of marketing practices which has been attempted by a number of industries and what is an agreement to attempt to be reasonable, fair, and not to do unfair things, but that is subject to criticism as either being or having the

possibility of a violation of the anti-trust law, and those things may lead to consolidations in order to avoid those effects. But I am not one who believes that large consolidations have any great advantages in the end or are a cure for our ills.

Q. Mr. Holmes, do you believe that the oil industry would be improved and the people of Texas and the country in general better served if the existing group of major companies still continued to grow larger or that they remained the same and there came into being a number of smaller companies—do you think that would be helpful or do you think big ones ought to continue to grow bigger?

A. I would rather have the small ones grow bigger. I think our entrance into the petroleum industry, the entrance of the Gulf Refining Company, and other large independent companies has had an effect on the situation—that is competition is desirable that there be enough large units; if you have large units, it is desirable that you have them so that there is actual competition between the large ones. I think it would be undesirable in any industry to cut it down to one or two or three large units with no small ones.

#### Questions by Senator Hopkins.

Q. You have been exceedingly kind and patient through a long day and I ask you to indulge me for a moment or two to throw some light on what is a troublesome question in my mind. We are confronted here with a concrete question of whether we should attempt to use existing agencies to give relief to the depressed condition of the oil industry, or create a new agency. Now, would you be willing to express an opinion as to whether or not the situation in which the oil industry finds itself in Texas can be best served through the creation of a new commission to handle that, or whether in your opinion the strengthening of the present common purchaser pipe line law governing ratable taking, plus the invoking of authority under injunction law, plus invoking authority which would be placed in the hands of an agency under strengthening our penalty feature for violation of the Railroad Commission's orders would be more beneficial or

equally beneficial, or would it necessitate a new commission?

A. Well, I have no judgment about that. I feel this about your Railroad Commission: In my contact with them, such as I have had, I feel that your Railroad Commission has done all in the interest of the industry that it had the authority to do, but I have no fixed opinion at all about whether you should have a separate commission of the Railroad Commission. I think that is entirely for you people in authority to determine. I say I have absolutely no opinion about it at all.

Q. From the standpoint of the industry and relieving it of its depressed condition, from your standpoint will either method achieve anywhere near the same result?

A. I am assuming whatever your commission is, whoever it may be, they would have the same authority, and it is just a question of who or what commission would be set up vested with that power, so I think it would make no difference. It is just a question of their ability to carry on.

Q. This one other point, which is rather foreign to the question just asked. There is a great deal of diversity of opinion as to whether or not proration should be invoked, as exhibited by the practices of the various operators. Have you as president of the Texas Company made an effort to obtain the cooperation of the other so called majors, like the Gulf and the Magnolia in Texas in enforcing proration orders?

A. Yes, sir.

Q. It is commonly reported, Mr. Holmes, among the laymen on the street that the Texas and the Humble Company are protagonists, so to speak, being in favor of it openly, and for some reason are not obtaining the cooperation of the Gulf and the Magnolia in that venture. Is that correct?

A. Well, I think it is, since we know the Gulf people have all the time been adverse to legislation. They have been frank about it and the Magnolia, I have been told, are more or less neutral. They have cooperated in this effort. I have seen no lack of cooperation, but in this effort here to get some strengthening legislation I have seen no evidence of any activity on their part, on either side. In fact, I haven't

seen much evidence of what anyone is doing, except what I am told.

Q. As the result then of your relations and dealings with the Gulf and the Magnolia, you find them adverse to proration through legislative enactment?

A. I haven't found them adverse to proration but I think I can frankly say that the Gulf people have been adverse to legislation.

Q. The reason I ask you is, it occurs to me there are certainly two sides to this question and I would like to lay a predicate for future developments for this reason, if they are opposed to legislative control, as to where the difference arises in contrast to the viewpoint of the Texas Company and the Humble Company?

A. I think it would be wise to get their views direct from their representatives.

Q. May I ask the question whether or not in your knowledge there are any other so called majors which are opposed to legislative enactment to control this situation?

A. No. I have no definite knowledge of others who are definitely opposed.

Q. In your activities in obtaining or attempting to obtain the cooperation of other majors, what has been the attitude of the Shell Petroleum Corporation as to obtaining conservation laws in the various States in which they operate?

A. They have expressed themselves in favor of it.

Senator Hopkins: That is all. Thank you, Sir.

Questions by Senator DeBerry.

Q. I would like to ask permission to ask four or five more questions. I am going to make a little speech before I ask them because it will clearly outline to you why. I represent a district, my local district where there is no production. We are almost totally engaged in agricultural pursuits, chiefly cotton. Therefore this thing appeals to me from this standpoint. I want to ask you this question: I understood you to say this morning that you were by principle rather wedded to the theory of free trade?

A. Yes, sir, I did.

Q. If I as a representative of my people, agriculture being paramount in my district, if I vote for a Bill to eliminate waste and it does not boost the price to where you think

it ought to go, and then you and others interested ask me to vote for a Bill that will give a market value equation in it, and that doesn't get it up there; and then you would ask for a tariff to get it up there—now, is that free trade?

A. I am not going to ask for a tariff.

Q. Sir?

A. Personally I am not going to ask for a tariff, but if when you have done all you can do here, if others disregard what you have done and a tariff is a necessity in order to make your efforts successful, then I would go with you on a tariff.

Q. Would you as a man who was fundamentally, heart, soul, mind and body wedded to the agricultural interests—he has been born there, that is about all he knows—would you keep voting for a tariff, or subsidy, or Legislative enactment that raises the other man's stuff when yours was going to the bow-wows, would you keep that up if you were me?

A. Well, I am as much interested in oil as you are in cotton. If there is any way in the world that I could do anything that would help cotton or wheat or sugar and pay a part of that expense, I think I would be willing to do it.

Q. Well, if we are to pass it around and everybody lift up together, there really would not be very much advantage gained by a subsidy or tariff, would there?

A. If there is some other way to bring about better conditions there would be no need for it, that is correct.

Q. If there was a way to raise the oil industry from its position now by artificial methods, and there was another artificial method to raise cotton, and another one to raise wheat, all of which took legislative bureaus, taxes and money to support them, do you reckon we would be much better off if we had to raise everyone of them by that method?

A. I don't see why it should cost very much to restrict production. If you set out to buy all of your cotton and put in warehouses in order to relieve your farmers, or buy all of this oil so that the field in East Texas could go on producing until dooms day, that would cost an awful lot of money, but when you merely restrict the production to reas-

onable limits you haven't cost any one very much money in expense or otherwise.

Q. I think I understood you to say this morning that the Government buying up the cotton and wheat was a mistake, and I have said so all the time, and still say so because every time I look up I see three million bales of cotton hanging over my eight cent crop at home. Did I understand you to say this morning that your company has not cut their wage scale?

A. We have not, there have been a few adjustments but no general wage reduction. There has been some reduction in hours and some few adjustments where salaries were considerably out of line.

Q. No appreciable wage scale cuts?

A. No, sir, but we are approaching a point where we must consider that. It is inevitable.

Q. Allright.

A. We can't go on. We must either quit paying dividends or we must lower salaries and we are all going to be confronted with that unless something happens to improve it.

Q. Do you know as to the policy of the other companies, whether they have made any substantial wage cuts?

A. I think none of the larger companies have done that.

Q. If you were me and represented a district in which last year you could hire all the men you wanted to work ten hours a day for from a dollar and a quarter to a dollar and a half and this year you can hire as many men from six bits to a dollar a day, if you were me, voting for those people, would you support a system to maintain the wage scale in the oil industry and ask them to help pay for it out of wages like that?

A. No, I would not recommend the support of any legislation to fix wages.

Q. I mean would you vote for the creation of any economic condition that would let you maintain that wage scale when you admit you couldn't do that for my interests?

A. Well, yes, I think I would. I think if you take this as a specific instance, and it has in it the possibility of maintaining a desirable wage scale, I think it would have a

very strong influence on me in voting for it.

Q. Would you, if the people in your district, the only benefit they could get out of it is what your reasonably prosperous bunch might pass on to them—would you, if you recognized you couldn't pass legislation to benefit the industry in which he was engaged, would you vote to help create a condition that would maintain that wage scale and ask him to work for six bits a day or a dollar a day—would you be treating them fair?

A. Well, you are putting a hard question to me, but I think when you make it a matter of fair treatment, there is no injury in benefiting those you can, even though you can't benefit all. If you confine your activities in the way of benefits to those where you could benefit everyone, you would do very little because your field of activity and the opportunity is never before you to benefit all alike. There may be some indirect benefits to your people through the improvement in the condition of the industry. I think that is undoubtedly the truth.

Q. But, isn't it a fact, as far as the agricultural interests are concerned, what oil products they use go up—gasoline around sixteen, eighteen, or nineteen cents, as the case might be, somewhere around there, and with conditions with respect to the farmer being as bad as they now are, especially prices for their stuff, would that be treating them fair to ask them to pay that additional price for stuff to maintain an adequate wage scale in your industry, and let my bunch go ahead and rough it?

A. Isn't the reason your men are more plentiful and willing to work for less because many men in industry are idle and more and more willing to take any kind of work they can get; isn't that partly the reason?

Q. Yes, that is partly the reason.

A. You are going to have to decide this yourself. I am not going to be able to give you much help.

Q. One more question, Mr. Holmes, and I am through. How much acreage did you say your Company owned outside of the borders of the United States?

A. I think about two million acres.

Q. Have these holdings ever been

gone over by petroleum engineering experts or geologists to the extent that you have a reasonable idea as to their potential oil values?

A. A good deal of the acreage is on structure. They have not been drilled to determine the absolute presence of oil, but we bought it or leased it on structure.

Q. Have you any production on any of it?

A. No.

Q. In making up your inventory you carry that on your books, do you not?

A. This land?

Q. Yes.

A. Yes.

Q. A while ago you testified that your Company made something like two and a half per cent last year. I would construe that you meant that on all of your capital investment?

A. Yes, sir.

Q. This land—this two and a half million acres of land, do you carry that land on there at what you paid for it, or its estimated value?

A. All our property is carried at cost; no matter what it is, it is on our books at cost, except our oil, which is carried at the market price; any other property we have is carried at cost, except the oil.

Senator DeBerry: I thank you.

Senator Woodward: For myself and I am sure for every member of the Committee, I wish to state that we are deeply grateful to Mr. Holmes for his great patience, and the thorough manner in which he has answered the questions propounded him.

The Chairman: I was just going to express for the committee and myself, personally, our gratitude for the consideration and patience with which he has listened to us, and the pointedness with which he has answered all questions asked him by members of the committee.

Senator Woodward: I move that we recess until tomorrow morning at ten o'clock.

The Chairman: Gentlemen, we will recess until tomorrow morning at ten o'clock, at which time we will take up some new witnesses.

(Thereupon at 6:30 o'clock p. m., Friday, July 24, 1931, the committee recessed until 10:00 o'clock a. m., Saturday, July 25, 1931.)

## EIGHTH DAY.

(Continued.)

Senate Chamber,  
Austin, Texas,  
July 25, 1931.

The Senate met at 9:30 a. m., pursuant to recess and was called to order by Lieutenant Governor Edgar E. Witt.

### H. C. R. No. 4.

The Chair laid before the Senate: H. C. R. No. 4, Relating to a meeting of certain officials in regard to the cotton situation.

Read and adopted.

### H. C. R. No. 5.

The Chair laid before the Senate: H. C. R. No. 5, Relating to freight rates on farm and ranch products.

Read and adopted.

### At Ease.

Senator Woodward received unanimous consent, at 9:40 o'clock a. m., for the Senate to stand at ease subject to the call of the Chair.

### Adjournment.

The Senate was called to order at 1:50 o'clock p. m. by Lieutenant Governor Edgar E. Witt.

On motion of Senator Woodward, the Senate, at 1:51 o'clock p. m., adjourned until 9 o'clock Monday morning.

## TRANSCRIPT OF TESTIMONY

Saturday, July 25, 1931.

Morning Session—9:45 o'clock.

Judge R. L. Batts was sworn by the Chairman.

The Chairman: Judge, I believe the committee would like to have a statement from you, and then they may ask questions.

Judge Batts: Gentlemen, I am a member of the Board of Regents of the University, and, while I am interested otherwise in your proceedings here, it is in that capacity that I speak to you, at the suggestion of my fellow members. We want you to have before you the facts with reference to the Reagan County field belonging to the University.

About two and a half years ago one of the operators in that field,